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*for  
and are  
for*



**Estate of In-  
heritance**

**Fee Symple.**

**After the cō-  
mon lawe.**

**Fee taylor.**

**Generall.**

**Especial af-  
ter possibi-  
litie of ill.**

**Frāke  
tenement**

**Franktene-  
ment onely**

**Curtseye  
of Englande.**

**Dower.**

**Terme of lyfe.**

**Terme of o-  
thers lyfe.**

**Pos-  
selsy-  
on of**

**After the  
custome.**

**Also note here, that franketene-  
ment after the custome, maye be dy-  
uyded in lyke maner as franketene-  
ment by the common lawe is.**

**Reall.**

**Terme of yeres.  
warde of lande.**

**To holde at wyll.**

**Chatell.**

**Personall.**

**All goodes  
mouables.**

**NOV 28 1908**



ENANT IN FEE  
Symple is he, whiche hath  
landes or tenementes, to  
holde to hym and to his  
heyres for ever. And is  
called in latine, feodum  
simplex, for feodum is  
called inheritaunce, and

what is fee  
Symple.

simplex, is as muche to saye, as lafull or  
pure, and so feodum simplex, is as muche to  
saye, as lafull or pure inheritaunce. For yf  
a man wyl purchase landes or tenementes in  
fee Symple, it behoueth hym to haue these  
wordes in his purchase, to haue and to hold  
to hym and to his heyres. For these wordes,  
his heyres, make the estate of inheritaunce,

An. 20. b.  
6. fo. 38.

FOR IF any man purchase landes by  
these wordes, to haue and to holde to hym  
for ever, or by suche wordes, to haue and to  
holde to hym and to his assignes for ever. In  
these two cases he hath none estate, but for  
terme of lyfe, for that that he lacketh these  
wordes, his heyres, the whiche wordes one-  
ly make the estate of inheritaunce, in all fesse-  
mentes and grauntes.

CAND yf a man purchase lande in fee  
Symple, & dye withoute issue, any that is his  
next cousyn collaterall of the hole bloud, how  
farre so ever that he be frome hym in degree,  
maye inherite, and haue the same lande, as  
heyre to hym. But if there be father & sonne,

And

and



## LITTLE LIB. I.

**Maxime.**

and the father hath a brother, whiche is  
uncle vnto the sonne, and the sonne purchas  
seth lande in fee simple, and dyeth without  
issue, his father lyvynge: the uncle shall have  
the lande, as heyre to the sonne, and not the  
father: yet the father is more nere of bloude,  
for that, that there is a grounde in the lawe,  
that inheritance maye lynially descende, but  
nat lynially ascende. Yet if the sonne in suche  
case dyeth without issue, and his uncle en  
treth into the landes, as heyre to the sonne, so  
as he ought by the lawe, & after the uncle de  
ceaseth without issue, the father living: than  
shall the father have the lande, as heyre vnto  
the uncle, and nat as heyre vnto his sonne,  
for that that he cometh vnto the land by col  
laterall descent, and nat by lyniall ascencion.

**4** **C**AND in such case where the sonne pur  
chaseth lande in fee simple, and dyeth with  
out issue, they of his bloude of the fathers  
syde shall inherite, as heyres vnto hym, be  
fore any of the bloude of the mothers syde.  
But if he have none heyre on the fathers syde,  
than shall the lande descende vnto his heyres  
on the mothers syde. And this is the opinion  
of all the Justices. *M. 12. C. 4. fo. 14.* But  
ther: it was holden, if lande descende to a  
man by the fathers syde, whiche dieth with  
out issue, that his nexte heyre of the fathers  
syde, shall inherite vnto him, (that is to say)  
the nexte heyre that is of the bloude of the  
father, of the graundefathers syde. And for  
defaut of suche an heyre, they that be of the  
fathers

Fathers blode, of the parte of the mother, of the father, that is to say, the graundmother, oughte to inherite. And if there be noo suche heyre on the fathers syde, then the lord shall haue the lande by eschete. And soo it is yf a man take a wyfe inherite in fee simple, whiche he haue issue a sonne, and dye, and the sonne entrethe into the tenementes, as sonne and heyre to his mother, and after dieth without issue, the heyres on the mothers syde, ought to inherite the tenementes, and nat the heyres of the fathers syde. And if there be none heires on the mothers syde, than the lord, of whome the same lande is holden, shall haue the same lande by eschete. In the same manner it is, yf landes descende vnto the sonne on the fathers syde, & entreth, and after dieth without issue, the land shall descende vnto the heires on the fathers side, and nat to the heyres on the mother syde. And if there be none heires on the fader side, thā the lord of whom the lande is holden, shall haue the same lande by eschete. And so ye may see the diuersitie, where the sonne purchaseth landes or tenementes in fee symple, and where he cometh into those landes, or tenementes, by discente on the fathers syde, or on the mothers syde.

Diuersitie

**A L S O** yf there be thre bretherne, and the myddell brother poureth lande in fee symple, and dyeth withoute issue, the elder brother shall haue the lande by discente, and nat the yonger.

The elder son is more worthy of the bloude.

**A N D** also if there be thre brethern, and



Cap. 1.

the yongest brother po urchaseth lande in fee symple, and dyeth withoute issue, the elder brother shall haue the lande by discent, and nat the myddell brother, for that that the elder brother is moze worthy of bloudde.

Maxime.

**C**AND it is to be vnderstande, that noo man shal haue lande in fee simple by discent, as heire vnto any man, but if he be his heire of the hole bloudde. For yf a man haue issue .ii. sonnes by .ii. venters, and the elder pourchasethe lande in fee symple, and dyeth without issue, the younger brother shall nat haue the lande, but the vncle of the elder brother, or some other his nygh cousyn shall haue it, for that that the yonger brother is but of the halfe blood to the elder brother.

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**C**AND yf a man haue issue a sonne and doughter by oone venter, and a sonne by another venter, and the sonne by the f. irste venter pourchasethe lande in fee symple, and dieth without issue, the cyster shall haue the lande, by discent, as heire vnto hir brother, and nat the yonger brother, for that that the cyster is of the hole blood to her elder brother.

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**C**AND also where a man is seised of landes in fee simple, and hath issue a sonne, and a doughter by one venter, and a sonne by another venter, and dyeth, and the elder sonne entreth and dye h withoute issue, the doughter shall haue the lande, and nat the yonger sonne, and yet is the yonger sonne heire vnto his father, but nat to his brother. But yf the elder sonne entre nat into the lande after the

the deathe of his father, but dyeth before any entre made by hym, than the yonger brother maye entre and haue the lande as heyre vnto his father. But where the elder sonne in the case aforesayde, entreth after the deth of his father, and hath possession, thā the syster shall haue the land, Quia possessio fratris de feo s do simplici, facit sororem esse heredem: For the possession of the brother in fee simple, maketh the syster to be heyre.

¶ But if there be .ii. brethren by diuers ventres, and the elder is sealed of the lande in fee symple, and dyeth without issue, and his vnkle entreth as nexte heyre vnto the elder brother, whiche also dyeth without issue, thā the yonger brother maye haue the lande, as heyre vnto his vnkle, bycause he is of the hole bloude to hym, though he be but of halfe bloud vnto his elder brother.

¶ A N D it is to be vnderstande, that this what is in woꝛde inheritaunce, is not only vnderstande, heritaunce. wherc a man hathe landes oꝝ tenementes by discent of heritage, but also euery fee simple, oꝝ fee tayle, that a man hath by his purchase, may be sayde inheritaunce, for that that his heyres may inherite hym. For in a writte of ryght that a man bringeth of land, that was of his owne purchase, the writte shall saye, Quam clamat esse ius et hereditatem suam, that is to say, whiche he claymeth to bee his ryght and his inheritance. And so it shall be sayde in dyuers other wryttes, whiche a man oꝝ a woman bringeth of his owne purchase.

Maxime.  
An. 40. C.  
3. fol. 9. by  
Fencot.  
And the sa  
me kynge.  
Anno. 24.  
fol. 7.

The forme  
of a writte



Cap. 11

10

as it appereth by the Regester.

**A**ND of suche thynges as a man maye have a manuell occupacion, possession, or receyte, as of landes, tenementes, rentes, and so the other, a man shall say in his pledyng and in waie of barre, that one suche was seised in his demesne, as of fee. But of suche thynges, that lye nat in suche manuell occupacion &c. as of auowson of a churche, and suche lyke, he shall saye, that he was seised as of fee, and nat in his demesne as of fee. And in latin it is in one case, Quod talis fuit seifitus in dominico suo ut de feodo, that is to say, that suche one was seised in his demesne, as of fee, and in that other case, Quod talis fuit seifitus. &c. ut de feodo, that is to saie, that one suche was seised as of fee.

11

The moſte  
great inher-  
itaunce.  
Purchase,

**A**ND note welle, that a man maie not have a moze large ne greater estate of inheritance than fee simple.

12

**A**lſo purchase is called the poſſeſſion of landes or tenementes, that a manne hath by his dede, or by his agreement, vnto whiche poſſeſſion he cometh nat by diſcent of any of his auncesters, or of his couſyns, but by his owne dede,

**T**enant in fee taylor. Cap. 11.

**T**ENANT in fee taylor is by force of the statute of westmyſter ſeconde, Cap. 11. for at the common lawe before the ſayde ſtatute, all inheritance were fee

## FEE TAYLE.

5

Fee symple, for all the gistes, whiche ben specified within the same statute, were fee simple conditionally, as it appeereth by the rehearsal of the same statute. And now by the same statute, tenant in the tayle is in two maners, that is to say, tenant in taile general, and tenant in tayle speciall.

Cap. 21

Division.

**T**enant in tayle generall, is where landes or tenementes be gyuen to a man, and to his heires of his body begotten. In this case it is sayde generall tayle, for that that what so ever woman that suche ternaunt taketh vnto wyfe, yf he haue many wyues, and by eche of them hath issue, yet every one of these issues by possibilitie may inherite the tenementes by force of the sayde gyfte, bycause that euery suche issue is of his body ingendred.

Generall  
tayle.

**I**n the same maner it is, where landes and tenementes be gyuen to a woman, and to the heires of her body, althoughe she haue dyuers husbannes, yet the issue that she maye haue by eche husbanne, may inherite as issue in the tayle by force of the sayde gyfte. And therfore such gyftes bene called generall taile.

**T**enant in tayle speciall, is where landes and tenementes be gyuen to a man and to his wife, and to the heires of their .ii. bodies begotten. In suche case none may inherite by force of the sayd gyft, but those that be engendred betweene them two. And it is called especiall tayle, for that if the wyfe dye, and he taketh an nother wyfe, and hath issue, the issue of the seconde wyfe shall neuer inherite by

Speciall  
tayle.

A. v.

force



## LITTLE LIB. I.

**Cap. 2.**

Force of suche gyfte. For also the issue of the second husbnde, if the fyrst husbnde dye.

**Frank ma-  
riage maie  
be made as  
welle after  
the espous-  
elles as a-  
fore. B. 4.  
C. 5.**

**I**n the same maner it is, where landes and tenementes be gyuen by a man vnto an other with a wyfe, whiche is the doughter or cousyn to the gyuer, in franke mariage, whiche gyfte hath inheritaunce by these wordes, franke mariage, vnto it annexed: althoughe that they be nat expressely sayde or reherfed, in the gyfte, that is for to say, that these doones shall haue these landes or tenementes to them and to their heires betwene them two engendred, and this is sayd especiall taile. for that the issue of the seconde wyfe may nat inherite. &c. vt supra.

**What fee  
taile is.**

**A**nd note well that this worde talliare, is to saye, to sette vnto some certayntie, or elles lymitte vnto some certayne inheritaunce. And for that that it is limited and sette in certayn what issue shall inherite by force of such gyftes, and howe longe that the inheritaunce shall endure, therefore it is called in latine, Feodum talliatum. i. hereditas in quadam certitudine limitata. For yf tenant in generall taile dye withoute issue, the donour or his heires shall inherite as in theyr reuercion. In the same wyse is of the tenaunt in the taile speciall. &c. For in every gyfte in taile without more saying, the reuercion of fee simple is in the donour. And the donees, and theyr heires, shall do to the donour and to his heires, suche seruices as the donour dothe vnto his lord nexte about hym. Excepte the doones

**By what  
seruyces  
the tenan-  
tes in taile**

# FEE TAYLE.

5

ners in franke maryage, whiche shall holde quietly from every maner of service (but yf it be for fealtie) vntyll the fourthe degree be paste. And after that the fourthe degree be paste, the issue in the fyfte degree, and so forth the other issues after hym, shall holde of the donour and of his heires, as they holde ouer as is aforesayde. Cap. 2. Shall holde of theyr donour.

¶ And these degrees in franke mariage shall be accompted in suche maner, that is to saie, fro the donour to the donees in franke mariage the fyrt degree, for that that the wife that is one of the donees, ought to be the daughter, syster, or other cousyne to the donour. And fro the donees vnto theyr issue, shall be accompted the seconde degree. And from their issue vnto theyr issue, the thirde degree, and so forth. &c. Howe the degrees in franke mariage shall be accompted.

¶ And the cause is, for that after every suche gyfte, the issues that comme of the donour, and the issues that come of the donees, after the fourthe degree paste of bothe parties, in suche fourme to be accompted, maye bees wypte theym by the lawe of holy Church entermarie. And that the donee in franke maryage, shall be the fyfte degree of the foure degrees, a man maye see in a plee vpon a wytte of ryght of warde, where the playntife pleaded, that his ayle or graunde-father was sealed of certayne landes. &c. And that he helde of an nother by knyght service &c. whyche gaue the lande vnto done Rafe Hollande, with his syster, in franke mariage An. 31. E. 3



## L I T T E L. L I B. I.

**Cap. 2.**

etage. &c. All these tayles beforesayd, be specified in the sayde estatute of westmynster the seconde.

**Equitie of the statute.** ¶ Also there bee dyuers other estates in the tayle, which be nat specified by expresse wordes in the sayd estatute, but they be taken by the equitie of the sayd statute. As yf landes be gyuen vnto a man, and to his heyres males of his body ingendred, in suche case his heyre male shall inherite, and the issue female shall neuer inherite, yet in these other tayles aforesayd, it is otherwyle.

**The wylle of the donor in all things that be obserued.** ¶ In the same maner it is, if landes be gyuen to a man, and to his heyres females of his body ingendred, in this case his issue female shall inherite by force and fourme of the sayd gyfte, and nat the issue male, for that that in suche cases, where the gyfte is made in tayle, who ought to inherite, and who nat, the wyll of the donour shall be obserued.

¶ And in case where landes or tenementes be gyuen to a man, and to his heires males, yssue of his body, and he hath issue two sonnes, & deceaseth, the elder sonne entreth as heyre male, and hath issue a doughter, and deceaseth, his brother shall haue the lande, and nat the doughter, for that that the brother is heyre male. But in these other tayles, whiche bene especified in the sayde estatute, the doughter shall inherite before the brother.

**Tayle vnto the heyres males.** ¶ Also yf lande be gyuen vnto a manne and to his heyres males of his body ingendred, and he hath issue a doughter, whiche hath

hath issue a sonne, and deceaseth, and after that the donee deceaseth. In this case the sonne of the doughter shall nat inheryte by force of the tayle, for that that who soo cuer shall inherite by force of a gyfte in the tayle, made vnto the heyres males, behouethe to conuey his discent alway by the heyres males. But in suche case the donour shall entre for that that the donee is deade withoute issue male in the lawe. In soo moche that the issue of the doughter maye not conuey to him the descente of heyre male.

Cap. 2.

M. 18. E. 3.  
fol. 45.

The discent  
of the heyres  
males.

¶ And in the same maner it is where landes be gyuen to a man, and his wyfe, and to his heyres males of their. ii. bodies ingendred. &c.

¶ Also if tenementes be gyuen to a manne and his wyfe, and to the heyres of the body of the manne ingendred, in this case the husband hath estate in the generall tayle, and the wyfe but estate for terme of lyfe.

whan the  
husbande  
hath estate  
in tayle es-  
peciall, and  
whan the  
wyfe.

¶ Also if landes be gyuen to the husbande, and to the wyfe, and to the heyres of the husbande, whiche he ingendreth of the bodye of the wyfe, In this case the husbande hath estate in the speciall tayle, and the wyfe but for terme of lyfe.

¶ And if the gyfte be made to the husbande, and to the wyfe, and to the heyres of the wife of her body by the husbande ingendred, than the wyfe hath estate in the speciall tayle, and the husbande but for terme of lyfe.

¶ But if landes be gyuen to the husbande, and the wyfe, and to the heyres that the husbande



L I T T E L. L I B. I.

Cap. 2.  
An. 12. D.  
4. fol. 1.  
Twice al-  
leged. &c.

bande ingendyeth on the bodye of the wyfe,  
In this case bothe haue estate in the tayle, for  
that this worde, Heyres, is nat lyMITTED noo  
more to the one than to the other.

¶ Also yf landes be gyuen to a man and his  
heyres, that he ingendyeth on the body of his  
wyfe, in this case the husbonde hath estate in  
the tayle speciall, and the wyfe nothyng.

¶ Also if a man haue issue a sonne, and de-  
ceaseth, and the lande is gyuen to the sonne,  
and to the heyres of the body of his father  
ingendyed, this is a good tayle, and yet the  
father was deade at the tyme of the gyfte.

¶ And many other estates in the tayle there  
be by the equitie of the sayde estatute, that be  
nat specified here. But yf a man gyue landes  
or tenementes to an nother, to haue and to  
holde, to hym and to his heyres males, or to  
his heyres females, he to whom suche gyfte is  
made, hath fee symple, for that that it is not  
lyMITTED by the gyfte, of what body the issue  
male or female shall be, and so it may not in  
any thyng be taken by the equitie of the sayd  
estatute, and therfore he hath fee simple.

Fee Simple  
condicio-  
nally.

¶ Tenant in tayle after possibilitie of  
issue extincte. Cap. iii.

**T**enant in the tayle after possibilitie  
of the issue extinct, is where as landes  
or tenementes be gyuen vnto a man,  
and his wyfe in speciall tayle, yf one of them  
deceasse without issue, he that suruiueth is  
tenaunt

## FEE T A I L E .

7

Cap. 3.

Tenaunt in the taylor after possibilitie of issue extinct. And if they haue issue, durynge the lyfe of the issue, he that suruiueth shall nat be sayde tenaunt in the taylor after possibilitie of issue extinct. Yet if the issue deceasse without issue, so that there be none alpye, that maye inherite by force of the taylor, than he that suruiueth of the donees, is tenaunt in the taylor after possibilitie of issue extinct.

¶ Also yf landes be gyuen to a man, and to his heires, that be engendred on the bode of his wyfe, in this case the wyfe hathe nought in the tencmentes, but the husbände is scased as donee in the speciall taylor. And in this case yf the wyfe deceasse without issue of her bode engendred by her husbände, than the husbände is tenaunt in the taylor after possibilitie of issue extincte.

¶ And note welle, that none may be tenaunt in the taylor after possibilitie of issue extincte, but one of the donees or the donee in speciall taylor, for the donee in generall taylor may neuer be sayde tenaunt in the taylor after possibilitie of issue extincte, for that that alwaye durynge his lyfe, he may by possibilitie haue issue that maye inherite by force of the same taylor. And so in the same maner the issue that is heyre vnto the donees in a speciall taylor, may nat be sayde tenant in taylor after possibilitie. *xc. causa qua supra.*

¶ Also tenaunt in taile after possibill of issue extinct, shall neuer be punyshed of waste, for the inheritaunce that ones was in hym. But

he

Maxime.

An. 10. B.  
6. fol. 1.



## TENANT BY CURT.

Cap. 4.

he in the reuersion may entre, if he doth alpen  
in fee. Anno. 45. E. 3. fo. 22.

**T**enaunt by the curtesye of  
Englande. Cap. iiii.

**T**enaunt by the Curtesye of England,  
is where a man taketh a wyfe sealed  
in fee symple, or in fee tayle generall,  
or sealed as heye in the tayle specialle, and  
hath issue by the same wyfe male or female,  
the issue after beinge deade or aloue, yf the  
wyfe deceasse, the husband shal hold the land  
durynge his lyfe, by the lawe of Englande.  
And this is callyd tenaunt by the Curtesy of  
Englande, for that that it is not vsed in none  
other realme, but onely in Englande. And  
some saye, that it shall not be sayd tenant by  
the curtesy, but if that the childe that he hath  
by his wyfe, be harde to crie: for by the crye  
is the pfoe, that the chylde that he hadde by  
his wyfe, was bozne.

**T**enant in dower. Cap. v.

**T**enaunt in dower, is where a man is  
sealed of certayne landes or tenemen-  
tes in fee simple, or in fee tail general,  
or as heye in the tayle speciall, and taketh a  
wyfe, and deceaseth, the wyfe after the de-  
ceasse of her husbände, shall be endowed of  
the thyrde parte of suche landes, or tenemen-  
tes, that were her husbandes in anye tyme,  
durynge the couerture, to haue and to holde  
to

to the same wyfe in feueraltie, by metes, and boundes, for terme of her lyfe, whether she haue by her hus bande issue or none, and of what age the wyfe be, soo that she passe the age of. ix. yere at the tyme of her husbandes death, or els she shall nat be endowed.

**A**N D note welle, that by the common lawe, the wyfe shall nat haue for her dower but the thyrde parte of the tenementes, whiche were her husbandes, durynge the espoucelles. But by custome of some countrey, she shall haue the halfe, and by custome of some towne, or borough, she shall haue the whole: And in all these cases she shall be sayd tenant in Dower.

**A**L S O there is two other maner of dowers, that is to saie, dower called dowement at the churche doore, and dower called dowement by the fathers assent.

**D**owement at the churche doore, is where a manne of full aage is leased in fee symple, whiche shall be wedded vnto a wyfe: whan he commeth vnto the churche doore to be married, and there after affiance and truth made betwene them, he endoweth his wyfe of his hole lande, or of the halfe, or lesse parcell, and there openly declarcth the quantitie, and the certayntie of his land, that she shall haue for her dower. In this case the wyfe after the deathe of her hous bande, shall entre into the sayde quantitie of lande, of whiche her hus bande endowed her, without the assignement of any man.

Of what aage the wife shalbe endowed, and howe. An. 12. b. 4. fol. 3. by Hauk and Lokyn.

Dower at the churche doore.



L I T T E L . L I B . I .

Cap. 5.  
Dower by  
the fathers  
assent.

M. 40. C.  
3. fol. 45.

M. 12. C.  
4. fol. 3.  
Which do  
agree vnto  
the same.  
A rule.

Inquere.

Where as  
the wyfe

**D**owment by the fathers assent, is where the father is seased of tenementes in fee, and his sonne and heyre apparaunt, whan he is wedded, endoweth his wyfe at the churche doore of parcell of the landes or tenementes of his fathers, by thassent of his father, and assigneth the quantitie of the parcelles. In this case after the deathe of the sonne, the wyfe shall enter in the same parcell without the assignement of any other. But it hath bene sayde in this case, that it behoueth the wyfe to haue a dede of the father, prouynge his assent and consent of suche indowement. And yf after the deathe of the husbände she entre and agree vnto any suche dower of the sayd two dowers at the churche doore, than she is concluded to clayme any other dower by the common lawe of any landes or tenementes, whyche were of her sayd husbände. But yf she wyll, she may refuse such dower at the churche doore, and than she may be endowed after the course of the common lawe. And note well, that no wyfe shalbe endowed of the fathers assent in the foyme aforesayd, saue where her husbände is sonne and heyre apparant to his father.

**I**nquere in these two cases of endowment at the churche doore, yf the wyfe at the tyme of the deathe of her husbände, passe nat the age of nyne yeres, yf she shall haue suche dower or no.

**A**N D note well, that in all cases where the certayntie appereth, what landes or tenementes

tenementes the wyfe shall haue for her dower, the wyfe maye entre after the deathe of her husbände, without assignement of any other. But where the certayntie appereth nat, as to bee endowed of the thyrde parte, to haue in seueraltie, or to be endowed of the halfe, after the custome to holde in seueraltie. In suche cases it behoueth, that her dower be vnto her assigned, after the deathe of her husbände, bicause it is nat limited before the assignement, what part of landes or tenementes she shall haue for her dower. But yf there be.ii. ioyntenantes of certayne landes in fee, and the one alieneth that that to hym pertayneth and belongeth to an nother in fee, whiche taketh a wyfe, and after dyeth: In this case the wyfe for her dower, shall haue the thyrde parte of the halfe that her housbände pourchased, to holde in cōmune, and occupye in commune, as her parte amounteth, with the heyre of her husbände, and with the other ioyntenant, whiche alpyened nat, for that in suche case her dower may nat be assigned by metes and boundes.

¶ And it is to be vnderstande, that the wyfe shall nat bee endowed of landes or tenementes, that her husbände ioyntly helde with an other at the tyme of his deathe. But where he holdeth in common, it is otherwyse, as in the nexte case aforesayde.

¶ And it is to wite, that if the tenant in tailc endowe his wyfe at the churche doore, as it is aforesayde, that shall serue for lyttelle or

W ii

noughe

Cap. 5.  
maye entre  
in her dower with-  
out assigne-  
ment, and  
where nat.

An. 40. C.  
3. fo. 23. by  
Fencot.

The wyfe  
shal nat be  
endowed  
of the ioint  
estat of his  
husbände.

An. 14. B.  
4. fol. 14.



L I T T E L . L I B . I .

Cap. 5.

where assig-  
nemet of  
dower shal  
be voide by  
reasone of  
within age

Dower de  
la pl<sup>r</sup> bele.

noughte to the wyfe, for that that after the death of her husbände, the issue in the taylor may enter vppon the possession of the wyfe: & so maie he in the reuercion, if there be none issue in the taylor alpye.

¶ Also yf a man seased in fee simple, beyng within aye, endowe his wyfe at the churche doore, and dyeth, and the wyfe entreth. In this case the heire of the husbände maye put her out. But it is otherwyse, as it seemeth, where the father is seased in fee, and the son within age endowe his wyfe of his fathers assent, the father than beyng of full age.

¶ Also there is an nother Dower, whiche is called Dowement de la plus beale. And that is as in suche case, that a man is seased of. xl. acres of lande, and he holdeth. xx. of the sayde. xl. acres of one man by knyghtes service, and the other. xx. acres of an other in Socage, and taketh a wyfe, and hath yf sue a sonne, and dieth, his sonne beyng within the age of. xiiii. yeres, & the lord of whom the lande is holden by knyghtes seruyce, entreth into the twenty acres of lande, holden of hym, and then hath & occupieth as wardeyn in chivalry, durynge the chyldes nonage, and the chyldes mother entreth in the remenaunte, and it occuppeth as gardeyne or wardeyne in Socage. If in this case the wyfe bringe a wytte of Dower agaynst the wardeyne in Chivalrye, to be endowed of the tenementes holden by knyghtes seruyce, in the kynges courte, or in any other cource

court, the wardeyn in chivalry may pleade **Cap. 5.**

in suche case all the matter, and shewe howe the wyfe is wardeyn in socage, as it is afore sayd, and praye that it maye be adiudged by the courte, that the wyfe endowe her selfe of the mooste fayre, called *Plus beale*, of the tenementes, that she hath as wardeyne in socage, after the value of the thyrde part that she claymeth to haue of the tenementes holden in chivalrye by her wytte of Dower.

And yf the wyfe may not gaynsaie it, thanne the iudgement shall be made, that the wardeyne in chivalry shall holde the landes holden of hym, durynge the nonage of the child, quite from the woman. &c.

¶ And after suche iudgement gyuen, the wife may take her neyghbours, and in theyr presence endowe her selfe by metes and boundes of the fayrest parte of these tenementes, that she hath as wardeyne in socage, to the value of the thyrde parte of the landes, that the wardeyn in chivalry hath, and those to haue and hold for terme of her lyfe. And suche dower is called dower of the fayrest part, or *de plus beale*.

¶ With this agreeth *Pl. 45. E. 3. fo. 4.* But there it was said, that after the tyme that the heire came to his full age, the wyfe shall haue a newe action of dowrie agaynst the heire, to bee endowed of the thyrde parte of all that her husbände dyed seased of.

¶ And note well, that suche dowerment may nat be, but where the iudgemente is gyuen



LITTEL. LIB. I.

Cap. 6.

Five maner  
of dowers

Tenant by  
the curtesy

Maxime.

An. 12. B.  
4. fol. 1.

in the kynges court, or in some other court. And the wyfe maie doo this for the saluacion of the state of the wardayne in chynalry, durynge the nonage of the chylde. And so maie ye see five maner of dowers, that is to saie, dowerment by the comon lawe, dower by custome, dower at the churche doore, dower of the fathers assent, and Dower of the moste fayre. ¶ And remembre that in every case, where a man taketh a wyfe seased of suche estate of tenementes. &c. so that the issue that he hath by his wyfe, may by possibilitie inherite the same tenementes of suche estate, that the wyfe hath, as heyre to the wyfe: In suche case after the wyfe is deade, he shall haue the same tenementes, by the curtesy of England and otherwyse nat.

¶ A N D also in every case, where the wyfe taketh an husbände seased of suche estate of tenementes. &c. so that by possibilitie it may happe the wyfe to haue somme issue by her husbände, and that the same issue maye by possibilitie inheryte the same tenementes of suche estate that the husbände had, as heyre to his father: of suche tenementes she shall haue her dower, and otherwyse nat. For yf the tenementes be gyuen vnto a man, and to the heyres that he getteth on his wyues bodye, in suche case the wyfe hath nothyng in the tenementes, and the husbände hath estate but as donee in speciall taylor, yet yf the husbände dye without issue, the same wyfe shall bee endowyd of the same tenementes, for that

that the issue, that she by possibilitie myght **Cap. 5.**  
 haue had by the same husbände, may inherite  
 the same tenementes. But if the wife deceasse,  
 the husbände lyuyng, and after he taketh an  
 other wyfe, the seconde wyfe shall not be en-  
 dowed in this case, *causa qua supra.*

**¶** A man was seised of certayne landes, and  
 toke a wyfe, and after aliened the same lan-  
 des with warantie, and after the feoffor and  
 feoffee dyed, and the wyfe of the feoffoure  
 byngeth an action of Dower agaynst the  
 issue of the feoffee, and he vouched the heire  
 of the feoffour, and durynge the voucher, and  
 nat termyned, the wyfe of the feoffee, byn-  
 geth an action of Dower agaynst the heire  
 of the feoffee, and demandeth the thirde part  
 of all that her husbände was seised of, and  
 wolde not demaunde the thirde part of those  
 two parties, that her housbände was seised  
 of. It was iudged, that she shoulde haue no  
 iudgement, vntyl the tyme that the other plee  
 were determyned.

**¶** AND ALSO note, that Glauacour  
 sayth, that yf a manne be seised of landes,  
 and commytteth felony, and after alpeneth,  
 and after is attaynted, the wyfe shall haue a  
 good action of Dower agaynst the feoffee,

But yf it be escheted vnto the kynge, or  
 vnto the lord, she shall haue no wyte  
 of dower. And so se the diuer-

sitie, and enquyre  
 the lawe.





**T**ENANT for terme of lyfe, is where a man letteth landes or tenementes to an other for terme of lyfe of the lessee, or for terme of lyfe of an other man. In such case the lessee is tenant for terme of lyfe. But by comon language, he that holdeth for terme of his owne lyfe, is called tenaunt for terme of lyfe, and he that holdeth for terme of an other mans lyfe, is called tenaunt for terme of an others lyfe.

And it is to be vnderstande, that there is feoffour and feoffee, donour, and donee, lessour and lessee. The feoffoure is properly, where a man enfeoffeth an other in any landes or tenementes in fee symple, he that maketh the feoffement is called feoffour, and he vnto whom the feoffement is made, is called feoffee. And the donour is properly where a man gyueth certayne landes or tenementes to an other in the taylor, he that maketh the gyfte is called donour, and he to whome the gyft is made, is called donee. And the lessour is properly where a man letteth to an other certayne landes or tenementes for terme of lyfe, for terme of peres, or to hold at wyll, he that maketh the lease, is called lessour, and he to whom the leas is made, is called lessee. And every one that hath estate in landes or tenementes for terme of his owne lyfe, or for terme of an other mannes lyfe, is called tenant of freeholde. And none other of lesse estate

## TERME OF YERES. 13

estate maie haue freehold, but they of great- Cap. 7.  
 ter estate maie haue freeholde. For tenant in  
 fee simple hath freeholde, and ternaunt in the  
 taile hath also freeholde.

### ¶ Tenant for terme of yerres.

Cap. vii.

**T**ernaunt for terme of yerres, is where  
 a man letteth landes or tenementes to  
 an other, for terme of certayne yerres,  
 after the noumber of yerres, that is accorded  
 betwene the lessour and the lessee, and whan  
 the lessee entreth by force of the lease, than  
 is he tenant for terme of yerres, and if the les-  
 sour in suche case reserue to hym a yerely ret  
 vpon suche leas, he may chose for to distreyn  
 for the rent in the tenementes letten, or elles  
 he maye take an action of dette for the arres-  
 rages agaynst the lessee. But in suche case, if  
 behoueth, that the lessour be seased of the  
 same tenementes, at the tyme of his lease, for  
 it is a good plee for the lessee to saie, that the  
 lessour had nothyng in the tenementes at the  
 tyme of the leas, except the leas be made by  
 dede indented, in which case than suche plea  
 lyeth nat for the lessee to pleade.

¶ And it is to vnderstand, that in a lease for  
 terme of yerres, by dede or without dede, it  
 nedeth no livery of seisin to be made to the  
 lessee, but he may entre whan so ever he wyl  
 by force of the same lease. But of feoffemen-  
 tes made in the cuntrey, or gistes in the taile,  
 or leases for terme of lyfe, In suche cases,

where livery  
 of seisin  
 shall be re-  
 quired, and  
 where nat,



# LITTLE. LIB. I.

## Cap. 7.

Where freholde shall passe, yf it be by dede, or without dede, it behoueth to haue livery of seisin. sc. But yf a man lette landes or tenementes by dede or without dede for terme of yeres, the remaynder ouer to an other, for terme of lyfe, or in the taylor or in fee, than in suche case, it behoueth that the lessour make livery of seisin to the lessee for terme of yeres, or els there shall noothinge passe to theym in the remaynder, though the lessee entre in the tenementes. And yf the termour in suche case entre before any suche livery of seisin made vnto hym, than is the freholde and the reuercion in the lessour. But yf he make any livery of seisin vnto the lessee, than is the freholde with the fee to them in the remaynder, after the fourme of the graunt and wylle of the lessour. And if any man wyl make a feoffement by dede or without dede of landes or tenementes that he hath in many townes in one shyre, yf the livery of seisin be made in one parcell of the tenementes in one towne in the name of all, it sufficeth for all the other landes or tenementes comprehended in the same feoffement in all other townes in the same shyre. But yf a manne make a dede of feoffement of landes or tenementes in diuers shyres, there it behoueth hym to haue in euery shyre a livery of seisin. And in suche case a man shall haue by the graunt of an other fee simple, fee taylor, or freholde without livery of seisin.

**Exchange.** Als yf two men bee, and eche of theym is seised

## TERME OF YERES. 14

Cap. 7.

Leased of a quantitie of lande within oone  
 shyre, and the one graunteth his lande to the  
 other in eschange for the lande that the other  
 hath, and in the same maner the other graun-  
 teth his landes to the fyyste grauntour in ex-  
 chaunge for the lande that the fyyste graun-  
 tour hath. In this case eche may entre in the  
 other landes so taken in exchaunge withoute  
 any lyuerie of seisin. And suche exchaunge  
 made by woordes of tenementes, within the  
 same shyre, withoute any wytyng, is good  
 ynough. And yf the landes or tenementes be  
 in dyuers shyres, that is to saie, yf that the  
 one haue in one shyre, and the other hath in  
 an nother shyre, there it behoueth to haue a  
 dede indented made betwene them, of suche  
 exchaunge.

¶ And note, that in exchaunge it behoueth,  
 that the estates that bothe parties haue in the  
 landes so exchaunged, be egall. For if the one  
 wylleth and graunteth, that the other shall  
 haue his lande in the taylor, for the lande that  
 he hath of the graunt of the other in fee sim-  
 ple, though that the other is agreed to that,  
 yet this exchaunge is but voyde, for that the  
 estates be nat even.

¶ In the same maner it is, where it is gran-  
 ted, and agreed betwene them, that the oone  
 shall haue in the one lande fee taylor, and the  
 other shall haue in the other lande but terme  
 of lyfe. Or yf one shall haue in the one lande  
 fee taylor generall, and the other in the other  
 lande fee taylor speciall, so alwaye it behou-  
 eth

In exchaunge  
 the estates  
 ought to be  
 egall.



LITTEL. LIB. I.

Cap. 7.

tieth, that in exchaunge the states of bothe parties be egall, that is to saie, yf that one haue fee symple in that one lande, than the other shall haue suche estate in the other lande, and if the one hath fee taylor in the one lande, than the other shall haue lykewyse in the other lande. Et sic de aliis statibus.

An. 9. C. 4  
fol. 41.

¶ But it is nothyng to charge of the euen value of the landes, for though that the land of that one is muche more in value than the lande of the other, this is nothyng to purpose, so that the estate made by the exchange be euen, and so in exchaunge be two grantes, for euery parte graunteth his lande to the other in exchaunge, and in eche of theyr grantes mencion shall be made of the exchaunge.

Of posses-  
sion and  
seisyn.

¶ A N D I F a manne lette lande to an other for terme of yeres, though the lessoure dye before the lessee entre into the tenementes, yet may he entre into the tenementes after the deathe of the lessour, for that that the lessee by force of the lease hath right incontinent to haue the tenementes after the fourme of the lease.

¶ B V T yf a man make a dede of feoffement vnto an other, and a letter of attornei to a man, to delyuer to hym seisyn by force of the same dede, yet yf the livery of seisyn bee nat made in the lyfe of hym that made the dede, it auayleth not, for that that the other hath no maner of ryght to haue the tenementes after the purpose of the dede, before the livery of seisyn. And yf no livery be  
be

be made, than after the death of hym that made the Dede, the right of suche tenementes is continent in his heyre, or in some other.

**A**lso if tenementes bee lette to a man for terme of halfe a pere, or for terme of a quarter of a yere. &c. In suche case yf the lessee make waste, the lessour shall haue agaynst hym a writte of waste, and the writ shall say, Quod tenet ad terminū annorū, But he shall haue a speciall declaracion vppon the trowth of this mattier, and the plee shall nat abate the writ, for that that he maye haue no other writte vppon the mattier. An. 7. H. 7. fol. 13.

Wast agein  
tenant for  
terme of ye  
res. An. 14.  
H. 8. fo. 13.  
An. 4. E.  
4. fol. 19.

### **T**enant at wyll. Cap. viii.

**T**enant at wyll is, where landes or tenementes be letten by a man vnto another, to haue and to holde to hym, at the wyll of the lessour, by force of whiche lease, the lessee is in possession. In suche case the lessee is called ternaunt at wyll, for that he hath no certayne sure estate: for the lessoure may put hym out, at what tyme it pleaseth hym, yet if the lessee sowe the lande, and the lessour after the sowynge, and before that his greynes bee ripe, putteth hym out, yet shall the lessee haue his greynes, and shall haue fre egress and regress to reape and to carpe his greynes, for that he wylt nat at what tyme his lessour woulde entre vppon hym. Other wyse it is, yf tenant for terme of yeres, before the ende of his terme soweth the lande, and

With this  
agreith an.  
37. H. 6.  
fol. 38.



## Cap. 9.

and the terme is ended, befoze that his cozne be rype. In this case the lessour, or he in the reuercion, shall haue the graynes, for that the termour knewe wel the certainte of his term, and whan his terme shulde be ended.

¶ Also yf an hous be lette to a man to holde at wyl, by force of whiche the lessee entreteth into the house, within whiche house he bypnygeth his householde stufte, and after the lessour putteth hym out, yet shall he haue free entree, egress and regress in the same house, by reasonable tyme to carpe his goodes and householde stufte.

¶ And yf a manne seased of an house in fee symple, fee taylle, or for terme of lyfe, the whiche hath certarn goodes within the same house, and maketh his executours, and deceaseth, who so euer after his deathe hathe the house, yet shall his executours haue free entre, egress and regress to carpe out of the house the goodes of theyr testatour by a reasonable tyme.

¶ Also yf a manne make a dede of feoffement vnto an other of certayne lande, and deliuereth to hym the dede, but no liuery of seyn. In this case he to whom the dede is made may entre into the land, and hold and occuppe it at the wyl of hym that made the dede, for that that it is proued by the woordes of the dede, that it is his wyl, that the other shall haue the lande. But he that made the dede, may put hym out whan he wyl.

¶ A L S O yf an house be lette to holde at wyl,

Wyll, the lessee is nat holden to sustayne oꝝ re-  
paye the hous, as tenant for terme of yeres,  
is holden to do. But if the lessee at wyll make  
voluntarie waste, as in pullynge downe of  
houses, oꝝ in cuttyng oꝝ fellynge of trees: It  
is sayde, that the lessour shall haue for that a-  
gaynste hym an action of trespasse. As yf I  
delyuer to a man my shepe to dunge oꝝ marle  
his lande, oꝝ myne oxen to eate his land, and  
he sleeth my bestes, I may well haue an ac-  
tion of trespas agaynste hym, not withstan-  
dynge the delyuerie.

¶ Also yf the lessour vppon suche lease at  
wyll, reserue vnto hym a yerely rent, he may  
distreyn for the rent behynde, oꝝ to haue for  
that an action of dette at his owne choise, 6.  
R. 2. in Reple.

wast made  
by tenant  
at wil how  
he shall be  
punyshe  
Looke An.  
12. C. 4. fo  
lio. 8. an ac  
tio of tresp  
passe.

¶ Tenaunt by Coppe of court  
Rolle. Cap. ix.

**T**enaunt by copy of court roll, is as yf  
a man bee seased of a manour, within  
which manour there is a custome, and  
hath ben vsed tyme out of mynde, that cer-  
tayne tenantes within the same maner, haue  
vsed to haue landes oꝝ tenementes, to holde  
to theim, and to theyr heyyes in fee symple, oꝝ  
in fee tayle, oꝝ for terme of lyfe. &c. at the wyll  
of the lord, after the custome of the same ma-  
ner. And suche a tenaunt maye nat alyen the  
lande by dede, for than the lorde maye entre,  
as in a thyng forsayte to hym. But yf he  
wyll



# LITTEL. LIB. I.

## Cap. 9.

wyll alpen his lande to an nother, hym behoueth after some custome, to surrender the tenementes in some courte. &c. into the lordes handes to the vse of hym that shall haue the estate in suche forme, or to suche effect.

### Fourme of surrender in court barō.

Ad hanc curiam venit A. de B. & sursum redidit in eadem curia vnum messuagium. &c. in manus domini ad vsum E. de A. & hereditu suorum vel hereditu de corpore suo exeunt, vel pro termino vite sue. &c. Et super hoc venit predictus E. de A. et cepit de domino in eadem cur. messuagium predictum &c. habendum et tenendum sibi et heredibus suis, vel sibi et hereditu de corpore suo exeuntibus, vel sibi ad terminum vite sue, ad voluntatem domini, secundum consuetudinem manerii, faciendū et reddū, inde redditū, debīt, seruic. consuetudinū, inde prius debīt, et de iure consuet et dat domino de fine. &c. Et fecit domino fidelitatem. &c. That is to saie, A. of B. cometh

### Fourme of playnte.

unto this court, and surrendreth in the same courte a mese. &c. into the handes of the lord, to the vse of E. of A. and his heires, or to the heires, ylluyng of his bodye, or for terme of lyfe. &c. And vpon that cometh the forsayd E. of A. & taketh of the lord of the same court the forsayd mese. &c. to haue & to hold to hym & to his heires, or to hym & to his heires ylluyng of his bodye, or to him for term of lyfe at the lordes wyll, after the custome of the manour, to do and yelde therfore rentes, dettes, seruices, and customes therof befoze due and accustomed, &c. and gyueth the lord for a fyne

# TEN. BY COPY. 17

a fyne. &c. And maketh vnto the lord his fe: Cap. 9  
 alle. &c.

**AND** Suche tenants ben called tenaun-  
 tes by copy of court roll, for that they haue  
 none other evidences concernynge theyr tene-  
 mentes, but the coppes of the courte rolles,  
 and suche tenants shall nat implede nor be  
 impleded of theyr tenementes by the kynges  
 wytte, but yf they wyl implede other, for  
 theyr tenementes, they shall haue a playnte  
 made in the court of the lord, in suche forme  
 or to suche effect. A. de B. queritur uersus C.  
 de D. de placito terre, uidelicet de uno me-  
 suagio quadragita acris terre quatuor acris  
 prati. &c. cum pertinenciis. Et facit protesta-  
 tionem sequi querelam istam in natura breuis do-  
 mini regis assise mortis antecessoris ad com-  
 munem legem, uel breuis domini regis assise  
 noue disseisine ad communem legem. Aut in  
 natura breuis, de forma donationis in discen-  
 dere ad communem legem, That is to saie,  
 A. of B. complaineth against C. D. of a plee  
 of lande, that is for to saie of a mese, and .xl.  
 acres of lande, four acres of medowe. &c.  
 with the appurtenances, and maketh pro-  
 testation to sue his playnte, in nature of the  
 kynges wytte of assise of the deathe of his  
 antecessour at the common lawe, or by wytte  
 of our souerayne lord the kyng of assise of  
 nouell disseisin at the common law, or in na-  
 ture of a wytte of formedone in descender,  
 at the common lawe, or in nature of somme  
 other wyte. &c. pleges de prof. f. &c.

Playnt,

And

And



Cap. 9.

What reme-  
dy a tenat  
of custome  
shall haue  
against his  
lord.

H. 21. E. 4.

H. 7. E. 4.

¶ And though that some suche tenauntes haue inherytaunce after the custome of the manour, yet they haue none estate, but at the lordes wyll, after the course of the common law. For it is sayd, yf the lord putte them out, they haue none other remedy, but to sue vnto the lord by petition. For yf they hadde any other remedy, they shuld nat be sayde tenauntes at the lordes wyll, after the custome of the maner, but the lord wyll nat breake the custome that is reasonable in suche cases. But Brian chiefe Justyce sayth, that his opinion alwayes hath bene, and alwayes shall be, yf suche a tenant by custome, paynge his seruices, be put out by the lord, he shall haue an action of Trespas agaynst hym. And lykwys was the oppynion of Danby chiefe Justyce, for he sayth, that the tenant by the custome is as well enherite to haue his lande after the custome, as well as he that hath franktenement by the common lawe.

¶ Tenantes by the yerde. Cap. x.

Tenauntes by the yerde, be tenauntes in an nother nature, than tenantes by coppe of courte Rolle. But the cause for whyche they bee called tenauntes by the rodde or yerde, is for that whan they wyll surrender theyr tenementes into the lordes hande, to the vse of an nother, they shall haue a lyttell yerde or rodde, by the custome and vse, in theyr handes, whyche they shall

depts

*Handwritten notes at the bottom of the page, including "something to be surrendered" and other illegible cursive text.*

be'puer vnto the Stewarde or baylyffe, after the custome and vse of the maner. And he that shall haue the lande, shall take the same lande in the courte, and his takyng shall bee entred in the rolle. And the stewarde or the baylyffe, accordyng to the custome, shall deliuer vnto hym that taketh the lande, the same yarde, or an other yarde in the name of se'lyn. And for this cause they bee called tenants by the yarde. But they haue none other euidence, but copie of the court rolle.

**A**N D also in dyuers lordshippes and maners, there is such custome, yf suche a tenant that holdeth by the custome, wyl alen his landes or tenementes, he maye surrender his landes vnto the baylyffe or to the reue, or to two sadde men of the same lordshyppe, to the vse of hym that shall haue the lande, to haue in fee symple, fee tayle, or for terme of lyfe &c. and all that shall they presente at the nexte courte. And then he that shall haue the lande by copie of court rolle, shall haue the same lande after the entent of the surrender.

**A**ND so it is to wyte, that in dyuers lordshippes, and dyuers maners, there be many diuers customes, in suche case as to take tenementes, and as to pleade, and as touchyng other thynges and customes to be done, and all that that is nat agaynst reason, may well be admytted and allowed.

**A**ND suche tenauntes that holde after the custome of a se'pnoxe, or after the custome of a manour, though they haue estate of inheritance

Cap. 10.

Surrender  
made with  
out the  
courte.

Of customes.



# LITTEL. LIB. I.

Cap. 10.

Base tenure.

Diversitie

Where tenant at will hath inheritance and where nat.

heritaunce after the custome of the lordeshipp of the maner, yet bycause they haue nat any frecholde, by the course of the common lawe, they be called tenantes by base tenure.

**A**N D dyuers diuersities there bee betwene a tenaunt at will, whyche is in by the lease of the lessour, by the cours of the common lawe, and tenaunt after the custome of the manour, in the fourme aforesayd. For tenaunt at will after the custome may haue estate of inheritance (as it is aforesayd) at the lordes will after the custom and vsage of the manour. But yf a man haue landes or tenementes, which be nat within such maner or lordshipp, where suche custome hath ben vled in the fourme aforesayde, and will let suche landes or tenementes to an other, to haue and to holde to hym and to his heyres at the will of the lessour, these wordes (to the heyres of the lessee) be voide: for this is the cause, if the lessee dye, and his heyre entreth, the lessour shall haue a good action of trespassse agaynst hym, but nat so agaynst the heyre of tenaunt by the custome. &c. for that the custome of the maner in some case maye helpe hym to barre his lorde in an action of Trespasse.

**A**lso tenant by the custome in some places ought to repaie and susteyn the houses, and the other tenaunt at will ought nat. Also one by the custome shall do fealtie, and the other nat. And many other diuersities there be betwene them.

**T**hus endeth the fyrst boke.

HOMAGE. CAP. I.



HOMAGE IS THE mooste honou rable seru-  
tyce and mooste humble  
seruice of Reuerence,  
that a franke tenaunte  
maye doo to his lorde.

For whan the tenaunt **The man**  
shall make homage to how the te-  
his lorde, he shall dis- naunt shall  
to homage  
cende and his head vncouered, and his lorde  
shall sytte, and the tenant shall kneele before  
hym on both his knees, and holde his handes  
ioyntly togyther betweene the handes of his  
lord, and shall say thus, I become your man  
from this day forewarde of lyfe and lynne,  
and of erthely worshyp, and vnto you shalbe  
true and faithfull, and beare you faith of the  
tenementes, that I claym to holde of you, sa-  
uyng the saythe that I owe vnto oure souer-  
raigne lorde the kyng. And than the lorde so  
syttynge shall kysse hym.

**BUT** IF an abbotte or ppyour, or any  
other man of relygion, shall make homage **The homa**  
vnto his lorde, he shall not saye, I become ge of a reli-  
your mā, For that he hath professed hym self ous person  
onely to be goddis manne. But he shall saye  
thus, I do you homage, and vnto you shalbe  
true and saythfull, and beare you sayth for  
the tenementes, that I clayme to holde of  
you. Sauyng the saythe that I owe vnto  
one



Cap. 1.

The ho-  
mage of a  
wyfe.

our souerayne lord the kynge.

¶ Also yf a woman sole, shall make homage vnto her lord, she shall not saye, I become your woman. For that is not convenient for a woman to saie, that she shall become woman to any, but only to her hus bande, when she is wedded. But she shall saye, I make vnto you homage, and to you shall bee trewe and faythful, and shall beare you faythe of the tenementes that I holde of you, sayng the faythe that I owe vnto our souerayne lord the kynge.

Homage  
whā a mā  
holdeth of  
dyuers lordes.

¶ But yf a man haue seuerall tenauncies, whiche he holdeth of seuerall lordes, that is to say, euery tenancy by homage, than when he maketh homage vnto oone of his lordes, he shall say in the ende of his homage, sayng the faythe that I owe vnto the kyng, and vnto my other lordes.

Marime.  
What te-  
nant shall do  
homage.

¶ And note well, that none shall make homage, but suche as hath estate in fee simple, or in fee tayle, or his owne ryghte, or in an other mans ryght. For it is a grounde in the lawe, that he that hath estate but for terme of lyfe, shall make none homage, nor take no homage. For yf a woman haue landes or tenementes in fee simple, or in fee tayle, whiche she holdeth of her lord by homage, and taketh an hus bande, and hath issue, than the hus bande in the lyfe of the wyfe shall make homage, for that he hath title to haue the land by the curtesy, yf he suryue his wyfe, and also he holdeth in the ryght of his wyfe. But

H. 8. C. 4.  
fol. 28.

afore

afoze issue hadde betwene theim, the homage Cap. i.  
 sh all be made in both theyr names. But if the  
 wyfe deceasse before homage made by the  
 husbāde, in the wyfes lyfe, and the husbāde  
 holdeth hym selfe in, as tenaunt by the cur-  
 tesy, than he shall make noo homage vnto  
 his lord, for that that he hath as yet none es-  
 tate, but for terme of lyfe. More shall bee  
 sayde of homage in the tenure of Homage  
 auncestrelle.

**F**ealtie. Cap. ii.

**F**ealtie is as muche to saie, as Fidelitas  
 in latine, and whan a franke tenaunte  
 shall make fealtie to his lord, he shall  
 holde his ryghte hande vppon a booke, and  
 shall say thus.

**T**here you this my lord, that I vnto you **The man**  
 shall be faythefull and trewe, and beare you **howe feal-**  
 farthe of the landes or tenementes, that I **tie shall be**  
 clayme to holde of you, and trewely to you **made,**  
 shall doo the customes and seruyces, that I  
 ought to do vnto you at termes assigned, as  
 god me helpe and all his sayntes, and shall  
 kysse the boke. But he shall nat knele, whan  
 he maketh fealtie, nor shall make suche hum-  
 ble reuerence, as is aforesayde in homage.

And great diuersitie there is hadde betwene  
 makynge of fealtie and of homage. For ho-  
 mage may nat be made but to the lord hym  
 selfe. But the steward of the lordes court, or  
 the baylyffe maie take fealtie for the lord.

**Diuersitie**  
**betwene**  
**homage &**  
**fealtie.**



L I T T E L . L I B . I I .

Cap. 2.

**A**lso ternaunt for terme of lyfe shall make fealtie, and yet he shall make none homage. And diuers other diuersities there be betwene homage and fealtie.

**A**lso a manne maye see a good note. Anno 15. E. 3. where a man and his wyfe made homage and fealtie in the common banke, whiche is wyrtten in suche fourme. Note that John Lenkenor, and Elyzabeth his wyfe, made homage vnto William Thorpe in this maner. The one and the other helde ioyntly theyr handes betwene the handes of wylliam Thorpe, and the husbände sayd in this wise, we vnto you make homage, and beare you fayth for the landes that we holde of y. your Conusour, whiche hath granted you our seruyces in B, and in C. & the other townes. &c. agaynst all men, sauyng the faythe that we owe vnto our soueraigne lord the kyng, and to his heires, and to our other lordes, and the one and the other kyssed hym. And after they made fealtie, and the one and the other helde their handes togyther vpon a booke, and the husbände sayde the wordes, and both kyssed the booke. More shall be sayde of fealtie in the tenure of Socage, and in the tenure of Franke almoigne, and in the tenure of homage auncestrell.

**Escuage. Cap. iiii.**

**E**scuage is called in latine Scutagium, that is to saie, seruyce of shielde. And suche a ternaunt that holdeth his lande by

by escuage, holdeth by knyghtes seruyce.

And also it is commonly sayde, that somme holde by a fee of knyghtes seruyce, and some by the halfe fee of knyghtes seruyce. &c.

And it is sayde, that whan the kyng maketh a vyage royall into Scotlande, for to subdue the Scottes, than he that holdeth by a fee of knyghtes seruyce, behoueth to bee with the kyng by. xl. dayes wel and couenably arayed for the warre. And lykewyse he that holdeth his lande by the halfe of a fee by knyghtes seruyce, ought to bee with the kyng by. xx. dayes. And he that holdeth his lande by the fourth parte of a fee, by knyghtes seruyce, hym behoueth to be with the kyng by terne daies. And so after the quantitie, he that hath more, to doo more, and he that hath lesse, to doo lesse.

¶ But it appeereth by the ples and argumentes, made in a good plee vppon a writte of Detinue of an obligation brought by one Harry Gray, that it nedeth nat to hym that holdeth by escuage to goo hym selfe with the kyng, yf he wyll fynde an able personne for hym couenably arayed for the warre, to goo with the kyng, and that semeth good reason. For it maye be, that he that holdeth by suche seruices is sycke, in suche wyse that he maye nat goo nor ryde.

¶ AND also an abbotte or any other man of religion, or a woman sole that holdeth by suche seruices, oughte nat in suche case to go en propre personne. And sy William Herle,

L. v.

that

An. 7. C. 3.

For what cause he that holdeth by escuage may fynde a mā to do seruices for him



Cap. 3.

Howe the  
forty days  
shall be ac-  
compted.

that tyme chiefe Justyce of the cōmon place, sayd in the sayde plee, that Escuage shall nat be graunted, but where the kynge hym selfe goeth in propre persone. And so it aboode in iudgement in the same plee, yf these .xl. daies shall be accompted from the daye of the muster of the kynges host made by the cōmons, and by the kynges commaundement, or elles from the day that the kynge fyrste entreth in to Scotlande, &c. therfore inquire therof.

¶ And after suche voyage roiall into Scotlande, it is commonly sayde, that by the auctoritie of parlyamente the escuage shall be set and put in certayne, that is for to saie, a certayne summe of money, howe muche euery that holdeth by a hole fee of knyghtes seruyce, whiche was not in his owne propre persone, nor none other for hym, with the kyng, shall paye vnto his lorde, of whome he holdeth his lande by escuage. As it was ordeyned by auctoritie of parlyamente, that euery that holdeth by a hole fee by knyghtes seruice, whiche was nat with the kyng, shall pay to his lorde .xl. s. Than he that holdeth by the halfe of a fee by knyghtes seruyce, shall pay to his lorde but .xx. s. And he that holdeth by the fourthe part of a fee by knyghtes seruyce, shall paie but .x. s. And soo who more, more, and who lesse, lesse. And some tenantes hold by the custome, that yf escuage renne by auctoritie of parlyamente, to any summe of money, that they shall paye but the halfe of that summe: and some hold that they shall pay

Diuersitie  
of escuage.

paye but the fourthe parte of that summe.

But bycause the escuage that he shall pay, is nat certayne, what the parlyamentz wyll allese the escuage, he holdeth by knyghtes seruyce. But otherwyle it is of escuage certayne, of whiche shall be spoken in the tenor of forage.

¶ And if a man speake generally of escuage it shall be vnderstande by the common speche of escuage, nat certayne, whiche is knyghtes seruyce. And such escuage draweth vnto hym homage, and homage draweth vnto hym fealtie, for fealtie is incident to euery maner of seruyce, excepte to the tenure of franke almoigne, as it shall be sayde here after in the tenure of franke almoigne. And soo he that holdeth by homage and escuage, holdeth by homage fealtie and escuage.

The common speche of escuage.

Maxime.

¶ A N D it is to be vnderstand, that whan escuage is soo cessed by auctoritie of parlyament, euery lord, of whom the lande is holden by escuage, shall haue the escuage so assessed by the parliament, because it is vnderstand by the law, that at the beginning suche tenementes were gyuen by the lordes to the tenauntes, to holde by suche seruyces, to defende theyr lordes, as wel as the kyng, and to set in quiete and reste theyr lordes and the kyng, of the Scottes aforesayde.

And for that suche tenementes came fyrst of the lordes, it is reason that they haue the escuage of theyr tenauntes.

¶ And the lordes in suche case may distreyne Distres for for escuage.



LITTLE. LIB. II.

Cap. 3.

For the escuage so assessed, or they may have the kynges wittes directe vnto the Wyzemes of the Wyres, to leuy suche escuage for theim, as it appereth by the Register fo. 88.

¶ But of suche tenauntes that holde of the kyng by escuage, whiche were nat with the kyng in Scotlande, the kyng hym selfe shall haue the escuage.

¶ Item in suche case aforesayde, where the kyng maketh a voyage royalle into Scotlande, and the escuage is assessed by the parliament, yf the lord distreyn his tenaunte that holdeth of hym by seruyce of an hool knyghtes fee, for the escuage so assessed. &c. And the tenaunt pledeth and wyl auerre that he was with the kyng in Scotlande. &c. by xl. dayes, and the lord wyl auerre the contrary, it is sayde, that it shall be tryed by the certificacion of the constable of the kynges hoste, in wryting vnder his scale, which shall be sent to the Justyces.

Trial.

¶ Homage, fealtie, and escuage.  
Cap. iiii.

warde.

**T**enure by homage, fealtie, & escuage, is to holde by knyghtes seruyce, And it draweth vnto hym warde, mariage, and reliefe. For whan suche a tenaunte dyeth, and his heire male beyng within age of xxi. yere, the lord shall haue the lande holden of hym vntyl the age of the heire of. xxi. yere, whiche is called playne or full aeye, for that  
suche

Suche an heyre by the vnderstandynge of the lawe, is nat able to do knyghtes seruyce before the age of .xxi. yere. Cap. 4.

**A**N D also yf suche an heyre be nat married at the tyme of the deathe of his auncester, than the lord shall haue the warde and maryage of hym. But yf suche a ternaunte dye, his heyre female, beynge of the auge of .xiii. yere or more, thanne the lord shall not haue the warde nother of the lande, nor of the bodye. For that a woman of suche age may haue an husbande able to doo knyghtes seruice. But yf suche an heyre female bee within the age of .xiii. yere, and nat married, at the tyme of the deathe of her auncester, thanne the lord shall haue the ward of the land holden of hym, tyll the auge of suche an heyre female of .xvi. yere. For that it is gyuen by the statute of westmyster the fyrste, Capit. 22. that by two yere next folowynge the sayde .xiii. yere, the lord may tender a conuenient mariage, without disperagynge of suche an heyre female. And yf the lord doo not tender her suche mariage within the sayd. ii. yere, than she at the ende of the sayd. ii. yere, may enter and put out the lord. But if suche an heire female be married within the auge of .xiii. yere in the lyfe of her auncester, and her auncester dye, she beynge within the age of .xiii. yere, than the lord shall haue but the warde of the lande, tyll the ende of .xiii. yere of auge of suche an heyre female, and than her husbande and she may entre into the lande, and

The full  
age of a  
woman.  
An. 35. 7.  
6. fo. 32.



L I T T E L . L I B . I I .

Cap. 4.

and put out the lord, for this is oute of the case of the statute. In so much that the lord can nat tender mariage to her that is married &c. For befoze the sayde estatute of westmynster the fyrste, suche issue female, that was within the auge of. xiiii. yere, at the tyme of the death of her auncester, and after that she had accompyshed the age of. xiiii. yere without any tender of mariage to her by the lord, suche an heyre female than myght entre into the lande, and put out the lord, as it appeereth by the rchersall, and by the wordes of the same estatute, so that the sayde statute of westmynster the fyrste was made in such case all for the aduantage of the lordes, as it seemeth. But yet at all tymes it is vnderstande by the wordes of the same estatute, that the lord shall nat haue the .ii. yeres, after the xiiii. yere, as it is aforesayde.

The fulle age & auge of discrecion.

¶ A N D note wel, that the ful age of heire male and female, after the common speeche, is sayde the age of. xxi. And the auge of discrecion is sayde the auge of. xiiii. yere, for a chylde at suche age, which is wedded within suche age to a woman, maie agree to the mariage, or disagree.

The lord shall haue but oones the maryage of his warde.

¶ And yf the wardeyne in chynalre marye ones his warde within the auge of. xiiii. yere, to a wyfe, and after if he at the age of. xiiii. yere disagree to that mariage, it is sayd by some, that the chylde is nat holden by the lawe to be married an other tyme by his wardeyn, for that the wardeyne had ones the maryage of

of hym, & therfore he was out of his warde, as concernyng the warde of his bodye. And whan he had ones the maryage of hym, and ones was out of his warde, he shall haue no more the mariage of hym. In the same maner it is, if the wardayne mary hym, and the wyfe dye, the chylde beyng within age of .xiii. yere, or .xii. yeres.

¶ And that suche chylde maye dysagree to suche mariage, whan he commeth to the age of .xiii. yere, it is proued by the wordes of the statute of Merton cap. 6. that saith thus.

De dominis qui maritauerint illos quos habent in custodia sua villanis, vel aliis sicut burgensibus, ubi disperagentur, si talis heres fuerit infra .xiiii. annos, & talis ætatis, quod matrimonio consentire non possit, tunc si parentes illius conquerantur, dominus amittat custodiam illam usque ad ætatem heredis. Et omne commodum quod inde receptum fuerit, conuertatur ad commodum heredis infra ætatem existentis, secundum dispositionem parentum, propter dedecus ei factum. Si autem fuerit .xiiii. annorum et ultra, quod consentire poterit, et tali maritagio consenserit, nulla sequatur pena. And so it is proued by the same statute, that no disperage shall be, but where he that hath the warde, marieth hym within the age of .xiii. yere.

¶ A L S O it hath been a question, howe these wordes shulde be vnderstande, Si parentes conquerantur. &c. And it semeth vnto some, whiche consyderynge the statute of Magna

Question.



LITTEL. LIB. II.

Cap. 4.

Therposi-  
tio of these  
wordes, Si  
parentes  
conqueran-  
tur. &c.

Inquyre.

Diuers di-  
speragin-  
ges.

Magna carta. cap. 6. that willet, that heres  
des maritentur absq̃ disperagatione. &c. vpon  
whiche this sayde statute of Werton, vpon  
this poynt is grounded as it semeth, and  
in so muche that it was neuer seen nor herde,  
that any action was brought vpon the sta-  
tute of Werton, for suche disperagynge a-  
gaynst the wardeyn for the cause aforesayde.  
And yf any action may be taken vpon suche  
matier, it shuld be taken by common p̃sump-  
tion befoze this tyme, or at some tyme to be  
put in vre. And note, that these wordes shall  
be vnderstand in such maner, Si parentes cō-  
querantur. i. si parentes inter se lamentantur  
whiche is as much to say, that if the cousins of  
suche a child haue cause to make lamentacion  
or complaynte amonge theym, for the shame  
done to their cousyn so disperaged, whiche in  
maner is a shame to theim all, than maie the  
nexte cousyn, to whom the heritage may nat  
descende, enter and put out the wardeyne in  
chivalrie. And if he wyl nat, an other cousyn  
of the chylde may doo it, and he to take the  
issues and profites of the chylde, and of that  
yelde the chylde accompte, whan he cometh  
to his full age. Or els the chylde within acge  
may enter hym selfe, and put out the warden

ic. Sed quere de hoc.

¶ A L S O there be many other diuers dys-  
peragynges, whiche bee nat specified in the  
same estatute. As if the heyre that is in ward  
be married vnto one that hath but one foote,  
or one hande, or is deformed or lame, or ha-  
uyng

opunge an horrible disease, or elles a great and continuall infirmitie, or yf the heyre male be married to a woman that is paste chylde bearinge. And many other causes of desperagynge there be, but inquire of them, for it is good matier to learne.

Inquire,

¶ And of heyres males that be within age of .xxi. yere, after the deathe of theyr auncesters unmarried, In suche case the lord shall haue the mariage of suche an heyre, and haue space and tyme to tender to hym conuenable mariag, without desperagynge within the same tyme of .xxi. yeres.

¶ And it is to witte, that the heyre in suche case maye chosc yf he wyl be married or nat. But yf the lord, whiche is called wardeyn in chivalrye, tender a conuenable mariage to suche an heyre, within thage of .xxi. yere, without desperagynge, and the heyre refuse it, and wyl not be married within the same age, thā the sayd wardeyne shall haue the value of the mariage of suche an heyre. But yf suche an heyre male marie hym selfe within the age of .xxi. yere, agaynst the wille of the wardeyne in chivalrie. Than shall the warderne haue double the value of the marpage by force of the estatute of Merton aforesayd, as in the same statute is more fully compzised.

yf that the warde refuse them a marpage, he shall paye,

¶ A L S O dyuerse tenauntes holde of theyr lordes by knyghtes seruyce, and yet they holde nat by escuage, nor paye noo escuage, as they that holde theyr landes by castell warde, that is to saie, to kepe a towre

D

of



# LITTLE LIB. II.

**Cap. 5.**

**Castelle  
wards.**

of a castell or a gate, or some other place of the castell by reasonable warnynge, whanne they lordes here telle, that ennemyes wylle come, or he come into Englande.

**Maxime.**

¶ And in many other cases a man may hold by knyghtes seruice, and yet he holdeth nat by escuage, nor payeth no escuage, as shall be sayde in the tenure of graunde sergeantie.

**Reliefe.**

But in all cases where a manne holdeth by knyghtes seruyces, suche seruyces drawethe vnto the lord, warde, and mariage.

¶ And if a tenaunt that holdeth by seruyce of an hole knyghtes fee, die, his heire being at ful age of .xxi. yere, than the lord shall haue .l. s. for a reliefe. And of the heire of him that holdeth by halfe a knyghtes fee .l. s. And of hym that holdeth by a quarter of a knyghtes fee, .xxv. s. And he that hath moze, moze, and he that hath lesse lesse.

¶ Also a man may hold his land of his lord by the seruice of .ii. knyghtes fees, and than the heire being of full age at the tyme of the deathe of his auncester, shall pay to his lord .x. li. for reliefe.

**The fader** ¶ Also yf there be grandfather, mother, and luyng, the sonne, and the mother dyeth, the father and sonne shall the sonne luyng, and after the graundfater nat be vnto ther, which helde his lande by knyghtes seruice, dyeth seised, and the land descendeth to naunce of the sonne of the mother, as heire to the any other grandfather, whiche is within age. In suche case the lord shall haue the ward of the land, but nat the ward of the body of the heire.

for

For that none shall be in ward of his body to any lord, his father livery, because the father livery his life shall have the marriage of his heir apparent, and not the lord. Otherwise it is, if the father be dead, the mother livery, where the land holden in chivalric descendeth to the sonne on the fathers side. &c.

**ALSO** IF a man be seized of land, wherby he is holden by knyghtes service, and maketh feoffment in fee to his use, and dyeth seized to the use of his heir within age, and no will by hym declared, the lord shall have a writte of righte, of the ward of the body, and of the land, as if the tenant had dyed seized of the demesne. And if the heir be of full age at the death of his ancestor, in such case he shall pay relief, lyke as if he had bene seized of the demesne, and that is by the statute of an. 4. 13. 7. cap. 17.

**ALSO** there is wardene in right chivalric, and wardene in dede in chivalric.

Wardene in right chivalric, is where the lord because of his lordshipp is seized of the ward of the land, and the heir, vt supra, wardene in dede in chivalric, is where the lord in such case after his livery graunteth by dede, or without dede, the ward of the land, or of the heir, or of bothe, to another man, by force of whiche graunt, the graantee is in possession, than is the graantee called wardene in dede. &c.

Wardene  
by reason  
of use.

Wardene.

Wardene  
in right.

Wardene  
in dede.

It

Wardene



**T**enure in socage, is where the tenant holdeth of his lord his lande, by certayne service for all maner of services, so that the service be nat knightes service. As where a man holdeth his lande of his lord by fealtie and certayne rent, for all maner of services, or els where a man holdeth his land by homage, fealtie, and certayne rent for all maner of services: for homage by him selfe maketh nat knightes service.

what is tenure in socage.

Also a man maye holde of his lord onely by fealtie, and suche tenure is tenure in socage, for every tenure that is nat tenure in chivalrie, is tenure in socage.

And it is sayd, that the cause, wherfore suche tenure is sayde, and hath the name of tenure in socage, is thus, Quia hoc socagium, idem est quod servitium socce. Et hec soca socce, idem est q caruca. s. one soke or one plow lande. And in olde tyme, before the limittacion of tyme of mynde, great parte of the tenants, that helde of theyr lordes by socage, ought to come with their plowes every of the sayd tenants by certayne dayes in the yere, to eare and sow the lordes landes of his own graynes. But for that suche workes were done for the lyvelode and sustynance of their lordes, they were acqyted agaynst their lordes, of all maner of services.

And for this that suche services were done with theyr plowes, suche tenure was called  
tenure

tenure in Socage. And after that suche ser- Cap. 54  
uices were chaunged in dyuers other maner  
seruices, by consent of the ternautes, and by  
the desire of their lordes, that is to saye, into  
a pecely rent. &c. But yet the name of socage  
abydeth, and in dyuers places those tenants  
yet do suche seruice with theyr plowes vnto  
theyr lordes, so that all maner of tenures that  
be nat tenures by knyghtes seruice, be called  
tenures in socage.

3 rule.

Also yf a man holde of his lord by escu-  
age certayne, that is to saye, in suche tourme  
that whan escuage runneth, and is assessed by  
the parliament to a moze summe, or to a lesse  
summe, than the ternaunte shall paye to his  
lord but halfe a marke for escuage, and nei-  
ther moze ne lesse, to howe great summe or lit-  
tell summe that the escuage runneth, in this  
case, bycause the somme that he shall pay for  
the escuage is in certayne before that any es-  
cuage is assessed. &c. suche tenure is tenure in  
Socage, and nat by knyghtes seruice. But  
where the summe that the ternaunt shall paye  
for escuage is nat certayne, that is to saye,  
where it may be, that the summe that the te-  
nant shall pay to his lord for escuage, maye  
be at one tyme moze, and at an nother tyme  
lesse, after that it is assessed. &c. than suche te-  
nure is tenure by knyghtes seruice.

Also yf a man holde his lande for to paye An nother  
certayne rente to his lord for castell warde, Difference.  
suche tenure is tenure in socage. But where  
the ternaunt ought by hym selfe, or by an no-



Cap. 5.

Maxime.  
Rente ser-  
uice.  
The nextt  
frende.

The Gos-  
uernoure  
shall gyue  
account to  
the heire.

ther to make castelle warde, suche tenure is  
tenure by knyghtes seruice.

¶ Also in all cases where the tenant holdeth  
of his lord, to paye to hym any certain rent,  
that rent is called rent seruice.

¶ Also in suche tenures in socage, yf the  
tenaunt haue issue and dye, his issue beynge  
within the age of .xiii. yere, thanne the nexte  
frende of the heyre, to whome the herpytage  
may nat descende, shall haue the warde of the  
lande, and of the heyre, vnto the aage of the  
heyre of .xiii. yere, and suche wardeyn is cal-  
led wardeyn in socage. For yf lande discende  
to the heire by the fathers syde, than the mo-  
ther, or some other nyghe cousyn of the mo-  
ther syde, shall haue the warde. And if lande  
discend to the heyre by the mother syde, than  
the father, or the nexte frende of the father  
syde, shall haue the warde of suche landes or  
tenementes. And whan the heyre commeth to  
the age of .xiii. yere complete, he may enter  
and put out his wardeyne in socage, and oc-  
cuppe the lande hym selfe yf he wyll.

¶ And suche wardeyne in socage shall take  
no issues or profites of suche landes or tene-  
mentes to his owne vse, but onely to the vse  
and profite of the heyre, and of that he shall  
yelde accompte to the heyre, whan it pleaseth  
the heyre, after that the heyre hath accomplis-  
shed the age of .xiii. yere. But suche a war-  
deyne vppon suche accompte shall haue al-  
lowance of all his reasonable costes and ex-  
pences of all thynges. As of meate, drynke,  
and

And other necessities .xc.

**A**nd if suche a wardayne mary the heire within age of .xiiii. yere, he shal make accōpte to the heire, or to his executors of the value of the mariage, though he take nothyng for the value of the mariage, for that it shalbe ascerted his own folp, that he wold marie him without takynge the value of the maryage, without he marie him to such a mariage that is worthe in value, as moche as the mariage of the heyre .xc.

**A**L S O I F any other man that is nat a nygh frende .xc. occupie the landes and tenementes of the heire, as wardayne in socage, he shal be compellyd to yelde accompte vnto the heyre, as wel as his next frend. For it is no plee for hym in a wytt of accompt to say, that he is nat his nygh frend .xc. But he shal answer whether he occupieth the lādes or tenementes, as wardayne in socage or nat,

In nothee  
gouvernour

**B**ut inquire if after that the heyre haue accomplished the age of .xiiii. yere, and the wardayne in socage continually occupieth the lande tyll the heyre commeth to full aegc of .xxi. yere, yf the heyre at his full aegc shal haue an action of accompt againste the wardayne of the tyme that he hath occupied after the sayde .xiiii. yeres, agaynst hym as agaynst his wardayne in socage, or agaynst hym as agaynst his baylyffe.

Inquire.

**I**f the wardayn in chivalrie make his executors, and dye, the heire beyng within age .xc. the executors shal haue the worde,

D iii

durynge



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durynge the noneage. But yf the wardayne in socage make executours and dye, the heire being within age of .xiii. yere, his executours shall nat haue the warde, but an other nyghe frende, to whome the heritage maie nat dis- cende, shall haue the warde.

A notable  
Difference.  
If the war-  
dayne in so-  
cage die be-  
fore any ac-  
cōpte made  
the heire is  
without re-  
medy.  
The pꝛero-  
gatiue of  
the kyng.

¶ AND the cause of diuersitie is, for that the wardayne in chivalry hath the warde to his proper vse, and the wardayne in socage hath nat the warde to his owne vse, but to the vse of the heyre.

¶ And in suche case where the wardayne in socage dyeth before any suche accompt made by hym to the heyre, the heyre is of that with- out remedy, for that noo wytte of accompte lyeth agaynste the executours, but onely for the kyng.

¶ Also the lord, of whom the lande is holden in socage, after the deathe of his ternaunt shall haue reliefe in suche forme.

If the tenant holde by fealtie and certayne rent to pay yerely. .xc. If the terme of paye- ment be to pay by .ii. termes of the yere, or by .iiii. termes of the yere, the lord shall haue of the heyre of his tenant, as muche as the rent amounteth that he shulde pay by yere.

Reliefe in  
tenure of  
socage.

As yf the ternaunt helde of the lord by feal- tie, and .x. s. of rent, payable at certayne ter- mes of the yere, than the heyre shall paye to the lord .x. s. for reliefe, aboue this. x. s. that he shall paie for the rent.

¶ In lyke maner is, if a manne be seased of certayne lande, that is holden in socage, and maketh

maketh a feoffemente in fee to his vse, and dyeth seised of the vse (his heire beyng of the age of .xiii. yerres or moze) and no wyl by him declared, the lord shall haue reliefe of the heire as is aforesayd. And this is by the statute of Anno. 19. H. 7. cap. 15. Cap. 5.

¶ And in suche case after the death of the tenant suche reliefe is due to the lord incontinent, of what age so euer the heire be, so that he passe the age of .xiii. yerres, for that suche a lord may nat haue the warde of the bodye, nor of the lande of the heire. And the lord in suche case ought not to abyde the payment of his reliefe after the termes and daies of payment of the rent, but he oughte to haue his reliefe incontinent. And therfore he maye incontinent distrayne after the death of his tenant for the reliefe.

¶ In the same maner it is, where a tenaunt holdeth of his lord by fealtie, and by a poind of cummyu, or by a pounce of pepper, beside the common rente, and the tenaunt dye, the lord shall haue for his reliefe, a pounce of cummyne, or a pounce of pepper.

¶ In the same maner it is, where the tenat holdeth to pay by yere a certayne numbze of capons or hennes, or a payze of gloues, or certayne busshels of wheate, and suche other maner thyng. But in somme case the lord ought to abyde to distreyn for his reliefe tyll a certayne tyme.

¶ When the lord shall distreyn in contuente, and when he oughte to tary.

As yf the tenant holde of his lord by a rose, or by a busshell of roses, to paye at the feaste

D v

of



## L I T T E L . L I B . I I .

**Cap. 5.**

of sainte Iohn Baptiste, if suche a tenant dye in winter, than the lord may nat distraine for hys relef. &c. vntyl the tyme that the roses by the course of the yere may haue theyr growynges. &c. Et sic de similibus.

**A question**

**Answer.**

**Wherefore  
faith is gi-  
uen.**

**A rule.**

**A L S O** yf any peradventure wyl aske why a man may nat hold of his lord by fealtye only for all maner of seruices, in so moche that whan the tenant shall make his fealtye, he shall sweare to his lord, that he shall do to his lord all maner seruyces due, and whan he hath made fealtye in suche case, there is none other seruyce due. To this it maye be sayde, that where the tenant holdeth his lande of his lord, it behoueth that he ought to do to his lord some maner of seruice, for if the tenant nor his heires ought to do no maner of seruice to his lord, nor to his heires, than by longe tyme continued, it shuld be out of mynd and remembrance, of whome the lande was holden, of the lord or of his heire or nat, and than moze after and moze soner wyl men say, that the lande is not holden of the lord, nor of his heires than otherwise, & vpon this the lord shall lose his escheate of the land, or please the forfeiture or profite that he myght haue of the landes. So it is reason, that the lord and his heires haue somme seruice done vnto them for a pfoe and a witnesse, that the lande is holden of them, and for that fealtye is incident to all maner of tenures, except tenure of franke almoigne, as it shall be sayd in franke almoigne. And bicause that the lord

wyl

Wyll nat at the begynnyng of the tenure haue any other seruices but fealtie, it is reson that a man may holde of his lord only by fealtie, and whan he hath made his fealtie, he hath done all his seruices.

Also yf a man let to an other for terme of lyfe certayne landes or tenementes, without speakyng of any rente to yeld to hym, yet he shall do to the lessour fealtie, for that he holdeth of hym. Also yf a lease bee made to a man for terme of yeres, it is sayde, the lessee shall do the lessour fealtie, for that he holdeth of hym; and this is proued well by the wordes in a writ of wast, whan the lessour hadde caused to bring a writte of wast against hym, the which writ said, that the lessee holdeth the tenementes of the lessour for terme of yeres, so the writ proueth a tenure betwene them &c. But he that is tenant at wyll after the course of the common lawe, shall nat make fealtie, bycause he hath no maner of sure estate. But otherwysse it is of tenant at wyll after the custome of the manour, bycause that he is bound to do fealtie to his lord for two causes, one is bycause of custome, the other is bycause he taketh his estate in suche forme, to doo to his lord fealtie.

The forme  
of a writte  
of waste.

### ¶ Franke almoigne. Cap. vi.

**T**enure in franke almoigne, is where an abbot or a priour, or an nother man of religiō, or of holy church, holdeth of his



L I T T E L . L I B . I I .

Cap. 6.

The begin  
ning of the  
fyfte gyfte  
in free al-  
messe.

his lord in franke almoigne, that is to saye  
in latine, In liberam elemosinam, that is to  
saye, in free almesse.

¶ And suche tenure began fyfte in olde tyme  
in suche forme, whan a man in old tyme was  
seised of landes or tenementes in his demesne  
as of fee, and of the same landes or tenemen-  
tes cnsessed an abbotte and his couente, or a  
priour and his couente, to haue and to holde  
to theym, and theyr successours for euer, in  
pure and perpetuall almesse, or in franke al-  
moigne, In these two cases the landes were  
holden in franke almoigne, or by suche wordes  
to holde of the grauntour, or of the fe-  
four, and his heires in free almesse, in these  
two cases the tenementes were holden in  
franke almoigne.

¶ And in the same maner it is, where the lan-  
des or tenementes were graunted in old time  
to a deane and chapiter, and to theyr succes-  
sours, or to a persone of a Church, and to  
his successours, or to any other man of holy  
church, and to his successours in free almesse,  
yf he hadde capacite to take suche grauntes  
or feoffementes, &c.

¶ And suche as holde in free almes be bound  
of ryght before god, to doo orisons, prayers,  
masses, and other diuine seruice for the sou-  
les of theyr grauntours or feoffours, or for  
the soules of theyr heires which be dead, and  
for the prosperitie and good lyfe and good  
heirthe of theyr heires that be alive.

¶ And for this they do at no tyme no maner  
of

of fealtie vnto their lordes, for that suche di- **Cap. 6.**  
 uyne seruice is better for theim befoze God,  
 than any doyng of fealtie, and also that these  
 wordes, free almesse, or franke almoigne ex-  
 clude the lord to haue any worldly or tempo-  
 rall seruice, but onely to haue diuine and spiri-  
 rituall seruice to be done for hym. &c.

**Tenant in  
free almes  
shall do no  
homage.**

**A**nd yf suche that holde theyr tenementes  
 in free almes, or in franke almoigne wyl nat-  
 urally to doo suche diuine seruice, as it is  
 sayde, the lord may nat distreyn theim for  
 the seruice vndone. &c. bycause it is nat sette  
 in certayne, what seruices they ought to do,  
 but the lord may of that complayne to theyr  
 ordynarie, praying hym that he wyl set pu-  
 nyshment and correction of that.

And also to prouyde and see, that suche ne-  
 gligence be no more doone, and the ordynary  
 of right ought to do that. &c.

**B**ut where an abbotte or a priour holdeth  
 of his lord by certayne diuine seruice, in cer-  
 tayne to be done, as for to synge a masse eue-  
 ry Friday in the weke for the soules. &c. or eue-  
 ry yere at suche a daye to synge Placebo and  
 Dirige. &c. or to synge a chappelyne to synge  
 masse. &c. or to distribute in almesse to an hun-  
 dred poore men, an hundred pence at suche a  
 day, in suche case if suche diuine seruice bee  
 nat done, the lord may distreine &c. for that  
 this diuine seruice is in certayne by their tes-  
 ture, what the abbotte or the priour ought  
 to do. And in suche case the lord shall haue  
 the fealtie. &c. as it semeth.

**Tenant by  
diuine ser-  
uice.**

**And**



## L I T T E L. L I B. I I.

**Cap. 6.**

And suche tenure is nat sayd tenure in free almesse, but it is sayde tenure by diuine seruice, for in tenure in free almes or frank almoigne, no mencion is made of any maner certayne seruice. For none may holde in free almes or franke almoigne, yf there bee expessed any maner of certain seruice that he ought to do.

**In question**

¶ Also yf it be demanded whether the tenant in franke mariage shall doo fealtie to the donor, or to his heires before the fourth degree be passed. &c. ye may answer and say ye, for he is nat lyke as to this entente to a tenant in

**In answer**

free almes, or franke almoigne, for that the tenant in free almes shall do bycause of his tenure diuine seruice for his lord, as it is aforesayd, and that he is charged to do by the lawe of holy church, and for that he is excused and discharged of fealtie. But tenant in franke mariage doth nat for his tenure suche seruice. And yf he do nat to his lord fealtie, than he dothe nat to his lord any maner of seruice, neyther spirituall ne temporall, whiche shulde be an inconuenience and agaynst reason, that a man shuld haue estate of inheritance of an other, and yet the lord shall haue no maner of seruice of hym, and so it semeth, that he shall do fealtie to his lord, before the fourth degree be paste. &c. And whan he hath done fealtie, he hath done all his seruices.

¶ And yf an abbote holde of his lord in free almesse, and the abbote and his couent vnder theyr common seale, alyene the same lande to a secular man in fee simple, in this case

case the secular man shall doo fealtie to the lord, for that he maye nat holde of his lord in free almesse, for yf the lord oughte nat to haue of hym fealtie, thanne he shall haue of hym no maner of service, whiche shoulde be an inconuenience, where he is lord, and the tenementes holden of hym. **Csp. 6.**

**ALSO** if a man graunt at this day to an abbote or to a priour landes or tenementes in free almesse or franke almoigne, these wordes free almesse or franke almoigne bee void, for that it is ordeyned by the statute, whiche is called, *Quia emptores terrarum*, whiche statute was made Anno. 18. Ed. pri. **westm the thyrde.** that no man maye alene or graunte landes or tenementes in fee simple to holde of hym selfe: so that yf a man scyced of certayn landes or tenementis, which he holdeth of his lord by knyghtes service, at this day he granteth by licence the same lande to an abbot. &c. in free almes or franke almoigne, the abbot shall holde immediately the same tenementes by knyghtes service of the same lord, of whom his grauntour helde, and shal nat hold of his grauntour, bycause of the same statute. so that no man may holde in free almes or in franke almoigne, but yf it be by title of prescription, or by force of a graunt made to some of his predecessours, before the same statute was made.

**BY THE** kyng maye gye landes or tenementes in fee simple, to holde in free almes or franke almoigne, or by other seruces, **The kyng is aboue his lawe,** for

**12. C. 4**  
**en assise.**



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for he is out of the case of the statute.

**A**N D note well, that no man may holde landes or tenementes in free almesse, but of the grauntour or his heires, and that for the priuie of the gyfte, and therfore it is sayde, that yf there be lord, mesne, and tenant, and the tenant is an abbote, that holdeth of his mesne in franke almoigne, yf the mesne dye withoute heire, than the mesnaltie shall come by eschete to the sayde lord aboue, and the abbote than shall holde of hym immediatly donely by fealtie, and shall doo hym fealtie, for that he maye nat holde of hym in franke almoigne. &c.

**A**ND note well, where that suche a man of religion holdeth his landes of his lord in free almesse. &c. his lord is bounde by the lawe to acquite him of every maner of seruice, that any lord aboue hym, wyl demaunde or aske of the same tenementes. And yf he acqute hym nat, but suffreth him to be distreined. &c. than he shall haue agaynste his lord a writte of mesne, and recouer agaynste hym his damages and costes of his suite.

*A writt of  
mesne.*

**H**omage ancestrell. Cap. vii.

**T**ENURE by homage ancestrell, is where a tenant holdeth his lande of his lord by homage, and the same tenant and his auncester, whose heire he is, haue holde the same lande of the sayd lord, and of his auncesters, whose heire he is, from tyme out of

*tenure by homage  
ancestrell*

of mynde, by homage, and hatte doone ho-  
mage vnto hym. And this is called homage  
auncestrell, bycause of the continuance, whi-  
che hath ben by title of prescription in the te-  
nancie, in the bloude of the ternaunt, and also  
in the lordshyp, in the bloude of the lord.

And suche seruice of homage auncestrell dra-  
weth to hym warrantie, that is to say, if the  
lord that is aloue, hath receiued the homage  
of suche a ternaunt, he ought to warrant his  
ternaunt, whan he is impleaded of the landes  
holden of hym by homage auncestrell.

And also suche seruice by homage aunces-  
trell draweth to hym acquitaunce, that is to  
say, that the lord ought to acquite his tenant  
agaynst all other lordes aboue hym of euerye  
manner of seruice.

And it is sayde, that yf suche ternaunt be  
impleded by a Precipe quod reddat. &c. And  
he voucheth his lord to warrantie, whiche  
rommeth in by processe, and asketh of the te-  
naunt what he hathe to bynde hym to wars-  
rantie, and he sheweth howe he and his aun-  
cesters, whose heire he is, haue holden the lade  
of the vouche and of his auncesters, whose  
heire he is, by homage fro tyme out of mynde,  
yf the lord which is vouched, hath receyued  
none homage of the tenant, nor of any of his  
auncesters, the lord than yf he wyll may dis-  
clayme in the lordshyp, and so put out the te-  
nant of his warrantie. But yf the lord, whi-  
che is vouched, hath receyued homage of the  
tenant, or of any of his auncesters, than may  
he

Cap. 78

warrantie.

Acquittance.

Whan the  
lord is  
bounde to  
warrantie.

Disclame

William

104



L I T T E L . L I B . I I .

Cap. 7.

Recoverie  
in value.

A rule.

Plat. 10.  
C. 4.

he nat disclaym, but he is bounde by the law to warrant the tenant, and than if the tenant lese the land in default of the vouche, he shall recouer in value agaynste the vouchee of the landes or tenementes, that the vouchee had at the tyme of the vouch, or any tyme after.

¶ And it is to wete, that in euery case where the lorde may disclaime in his lordshyppe by the lawe in court of recorde, and of that wil disclaime, his seignorie is extinct, and the tenant shall holde of the lorde nexte aboue the lorde, whiche so disclaymeth.

¶ But yf an abbotte or a pypour be vouched by force of homage auncestrell. &c. though he hath neuer taken homage. &c. yet he can nat disclayme in this case, nor in none other case, for they can nat deuelt that thyng in fee, whiche hath ben vested in their house.

¶ Also if a man that holdethe his lande by homage auncestrell, alpeneth his lande to an other in fee, the alienee shall do homage to his lorde. But he holdeth nat of his lorde by homage auncestrell, for that the tenauncye was not continued in the blode of the ancestors of the alienee, nor the alienee shall neuer haue the warrantie of his lande of his lorde, for that the continuance of the tenauncye in the tenant, and in his bloudde by the alienacion is dyscontynued: and so see, that the tenant that holdethe his lande by homage auncestrell of his lorde, yf suche a tenant alpenethe in fee, though that he take estate of the alpenee agayne in fee, he holdethe the lande

lād by homage, but nat by homage ancestrel. Cap. 7)

**A**lso it is sayde, that yf a man holde his lande of his lord by homage and fealtie, and he hath made homage and fealtie vnto his lord, and the lord hath issue a sonne, and dyethe, and the lordshyppe descendeth to his sonne: In this case the tenaunt, whyche dyd homage to the father, shall nat doo homage to the sonne, for that whan a tenaunte hath made ones homage to his lord, he is excused for terme of his lyfe, to make homage to any other heyre of the lord. But yet he shall do fealtie to the sonne and heyre of his lord, though that he made fealtie to his father.

**A**L S O I F the lord after the homage to hym made by his tenaunte, graunte the seruyce of his tenaunt by dede vnto another in fee, and the tenaunte attourneth. i.e. the tenaunt shall nat be compelled to do homage, but he shall do fealtie, though he dyd fealtie before to the grauntour. for fealtie is incident to euery attournement of tenementis, whan the lordshyp is graunted. But if a man be leased of a manour, and another man holdeth his land of him, as of the manor aforesayde by homage, the whiche hath done homage to his lord, which is leased of the manour, yf after that a straunger bypunge a Precipe quod reddat, agaynste the lord of the manoure, and recouerthe the manour agaynste hym, and sewethe execution i.e. in this case the tenaunte shall ones again doo homage to hym, that recouerthe the manor

A mā shall make ho-  
mage but  
ones in his  
lyfe.

A rule.  
whā a mā  
shall make  
twice ho-  
mage,



## Cap. 7.

## Diversitie.

When the  
tenant shall  
not bee dis-  
treyned,  
when he  
doth no ho-  
mage.

manour, all be it he hath ones done homage before, for that the state of him, which receiued the firste homage, is defeted by the recouere. And it shall nat lye in the mouth of the tenant to falsify or defete the recouerie, whiche was against his lord, and so be the diuersitie in this case, where a man cometh to his lordship by recouere, and where he cometh by discent or graunte of the seignorie.

**A L S O** if a tenant, which ought by his tenure to do homage to his lord, come to his lord and say to him, say I owe to do vnto you homage for the tenementes, that I holde of you, and I am redy here to doo you homage for the same tenementes, for the whiche I pray you that ye wyl now receiue it of me, and if the lord than refuse to receiue it, than after suche refuse the lord may nat distreyn the tenant for the homage vndoone, before that the lord requyre the tenant to do to him homage, and the tenant refuse to do it.

**A l s o** a manne may holde his lande by homage auncestrell, and by escuage, or by other knyghtes seruyce, as well as he myght holde his lande by homage auncestrel in socage.

**G**raunde Sergeantie. Cap. viii.

**T**ENURE BY graunde Sergeantie is where a man holdeth his landes and tenementes of oure soueraygne lord the kynge, by the seruice whiche he ought to do in his owne propre persone, as to beare the

## GRAND SERGEAN. 35

the kynges banner, or his speare, or to leade Cap. 7.  
 his hooſte, or to be his marſhall, or to beare  
 his ſword before him at his coronation, or to  
 be his ſewer at his coronation, or his caruer,  
 or his butler, or to be one of his chambers  
 laynes of his receyte of his eſchequer, or to  
 do other ſuche ſervice. &c. and the cauſe wher-  
 fore inche ſervice is called great ſergeauntie,  
 is for that it is more honourable and wour-  
 thyfull and digne, than is the ſervice of the  
 tenure by eſcuage, for he that holdeth by eſ-  
 cuage is nat lympted by his tenure to do as  
 ny more ſpeciall ſervice, than any other that  
 holdeth by eſcuage ought to do. But he that  
 holdeth by graunde ſergeauntie, ought to do  
 a ſpeciall ſervice to the kyng, he that holdeth  
 by eſcuage oughte nat ſo to do.

The moſte  
honorable  
holde.

**A L S O** yf the tenant which holdeth by Reliefe.  
 eſcuage dye, his heire beinge at full age, if he  
 helde by a knyghtes fee, the heire ſhall paye  
 but an. *l. s.* for his reliefe, as it is ordeyned  
 by the ſtatute of Magna carta. cap. 2. but he  
 that holdeth of the kyng by graunde ſerge-  
 auntie, and dyeth, his heire beinge of full  
 age, the heire ſhall paye vnto the kyng for  
 his reliefe, the value of his landes or tene-  
 mentes by pere, beſyde the charges and re-  
 priſes, whiche he holdethe of the kyng by  
 graunde ſergeauntie.

**A N D** it is to wyte, that ſeriantia, in la-  
 tyne is ſeruicium, and ſo magna ſeriantia, in  
 latyn is as moch as magnum ſeruicium, that  
 is to ſay a great ſervice.



Journal

LITTEL. LIB. II.

Cap. 10.

Howe tes-  
nuē by coꝝ-  
nage is  
grand ser-  
geantie.

¶ Also those which holde by escuage oughte to do their seruice out of the realme: but they that holde by graunde sergeauntie, for the moste part ought to do theyꝝ seruices within the realme.

¶ ALSO it is said, that in the marches of Scotlande somme holde of the kyng by coꝝnage, that is to saie, to blowe an hoꝝne for to warne the men of the countreie. &c. whan they here that the Scottes oꝝ other ennemies wyl come oꝝ enter into Englande. &c. whiche seruice is graunde sergeantie. &c.

¶ But if any tenant holde of any other lord than of the kyng by suche seruice of coꝝnage that is nat grande sergeantie, but it is knyghtes seruice, and draweth to hym warde, marriage, and relief, for none may hold by grande sergeantie, but of the kyng onely.

¶ Also a man may se in the .xi. yere of Henry the fourthe, that Lokayne than beyng chief baron of the eschequer, came into the comon place, byngyng with hym a coppe of record, in these wordes, Talis tenet tantam terram de domino rege, per seriantiam, ad inueniēdū vnū hominem ad guerram infra quatuor maria. &c. that is to saie, suche a manne holdeth so muche lande of our Soueraygne lord the kyng by sergeantie, to fynde one man to warre within the foure seas, and he demanded whether it was graunde sergeantie oꝝ petite sergeauntie, and Hanke than sayde, that it was graunde sergeauntie, for that it was seruyce to be done by the body of a man:  
and

Copy in  
the  
lib.

## PETITE SERGEANT. 36

and yf that he may not fynde a man to do the Cap. 9.  
seruice for hym, he muste do it hym selfe. To  
whome the other Justices assented. Lokyn  
than sayde, the tenant in this case shall paye  
reliefe to the value of the lande by yere, to  
whiche was made none answer.

**C**A N D note, that all they that holde of  
the kyng by graunde sergeantie, holde of the  
kyng by knyghtes seruice, and the kyng  
shall haue warde, maryage, and reliefe. But  
the kyng shall nat haue of theim escuage, yf  
they holde nat by escuage.

### **P**etite sergeantie. Cap. ix.

**T**ENURE by petite sergeantie, is where  
a man holdeth his lande of our souer-  
aigne lord the kyng, to yelde vnto  
hym yerely a bowe, or a sworde, or a dagger,  
or a knyfe, or a speare, or a payre of gloves  
of mayle, or a payre of spurres gylte, or an  
arrowe, or dyuers arrowes, or to yelde suche  
other small thynges, touchynge the warre.  
And suche seruice is but Socage in effecte,  
for that suche tenaunt by his tenure oughte  
not to goo nor doo any thyng in his owne  
propre personne, touchynge the warre. But  
to yelde and paye yerely certayne thynges  
vnto the kyng, as a manne ought to paye  
a rente.

**A**ND note, that no man may holde lande by  
grande sergeantie, nor by petite sergeantie,  
but of the kyng.

Petite ser-  
geantie is  
socage in  
effecte.



**T**ENURE in burgage is where an aunciente borough is, of the whiche the kynge is lord, and they that have tenementes within the borough, holde of the kynge theyr tenementes, that every tennante for his tenement ought to paye to the kynge a certayne rent by yere. &c. And suche tenure is but tenure in socage, and the same maner is where an other lord spirituall or temporall is lord of suche a borough, and the tenants of the tenementes in such a borough holde of their lord to paye eche of them yere an annuell rent, and it is called tenure in burgage, for that the tenementes within the borough be holden of the lord of the borough by certayne rent. &c.

Burgeses  
of the par-  
lyament.

**A**N D it is to wote, that the aunciente townes called boroughes be the most auncient and eldest townes that bee within Englande, for the townes that nowe bee cities or counties, in olde tyme were boroughes, and called boroughes, for of suche olde townes called boroughes, come these burgeses to the parliament whan the kynge hath summoned his parliament.

Customes  
of townes

**A**L S O for the mooste parte, suche boroughes have diuers customes, and vsages, whiche be nat had in other townes, for some borough had such custom, that if a man have issue many sonnes and dyeth, the youngest sonne shall inherite all the tenementes, whiche

the were his fathers, within the same borough, as heye vnto his father, by force of the custome, the whiche is called borough Englyshe. Cap. 104

¶ Also in some boroughes by the custome, the wyfe shall haue for her dower all the tenementes, whiche were her husbandes.

¶ Also in some borough by the custome, a man may deuyle by his testament, his landes and tenementes, whiche he hath in fee simple within the same borough at the tyme of his deathe, and by force of suche deuyle, he to whome suche deuyle is made, after the dethe of the deuylour, maye enter into the tenementes soo to hym deuyled, to haue and to holde to hym after the fourme and effect of the deuyle, without any lycure of seyson therof to be made to hym.

*Deuile by custome.*

¶ ALSO though a man may nat graunt nor gyue his tenementes to his wyfe, durynge the couerture, for that that his wyfe and he be but one person in the lawe, yet by suche custome he may deuyle by his testamente his tenementes to his wyfe, to haue and to holde to her in fee simple or in fee taile, or for terme of lyfe, or for terme of yerres, for that suche deuyle taketh none effect, but after the death of the deuylour.

*M. 4. C. 2*

¶ And yf a man at dyuers tymes make dyuers testaments and diuers deuyles. &c. yet the laste deuyle and wyll, made by hym, shall stande and abyde, and the other be voyde.

¶ Also by suche custome a man maye deuyle  
by



## L I T T E L . L I B . I I .

**Cap. 10,** by his testament, that his executours maye as-  
lyen and sell: the tenementes that he hath in  
fee synple for certayne summe of monye, to  
distribute for the soule, in this case thowge  
the deuyfour dye sealed of the tenementes,  
and the tenementes descende into his heyre,  
yet the execuotures after the deathe of theyr  
testatour may selle the tenementes so dyuy-  
sed, and put oute the heyre, and therof make  
a feoffemente, alienacion, and estate by dede,  
or without dede, to theim to whome the sale  
is made.

**How a mā  
may make  
a lafull es-  
tate wher  
he hath no  
thyng in  
the lande.**

**A N D** so maye ye see here a case, wher a  
man may make a lafull estate of landes and  
tenementes, and yet he hath nought in the te-  
nementes at the tyme of the estate made: and  
the cause is for that, that the custome and vs-  
sage is suche, Quia cōsuetudo ex certa causa  
rationabili v̄sitata, priuat cōmunem legem.  
For a custome v̄sed vpon a certayn resonable  
cause, barreth the common lawe. And note  
well, no custome is to be allowed but such cus-  
tom as hath ben v̄sed by title of prescription  
that is to say, from tyme wherof is no mind.

**Maxime.  
The opini-  
ons of the  
title of pre-  
scriptio in  
tyme of  
mynd.**

**B V T** dyuers opinions haue ben of time  
oute of mynd, and of title of prescription,  
whiche is all one in the lawe, for some men  
haue sayd, that the tyme of mynd shalbe said,  
from tyme of limitation in a wytt of ryght,  
that is to say, fro the tyme of kyng Richard  
the fyrst after the conquest, as is gyuen by the  
statute of westminster the first, for that a wytt  
of ryght is the moſte hyest wytt in his na-  
ture

ture that maye be. And in suche a wytte a man may recouer his ryght of the possession of his ancestors of the moſte aunciente tyme that any man may, by any wytt by the lawe &c. In ſo moche that it is geuen by the ſayde ſtatute, that in ſuche a wytte none ſhall be harde to aſke of the ſeyſon of his ancestors, of moze longer tyme, thanne of the tyme of kynge Rycharde aforeſayd, therfore this is proued, that contynuanſe of poſſeſſion oꝝ oꝝther cuſtoms and vſages vſed after the ſame tyme, is tytle of preſcription, and this is certayne. And other haue ſayde, that welle and truthe it is, that ſeiſyn and contynuanſe after the ſayd limitation. &c. is a tytle of preſcriptio, as is aforeſayd, and foꝝ the cauſe aforeſayde. But they haue ſayde, that there is alſo an nother tytle of preſcription, that was in the common lawe, befoze any ſtatute of lymyttacion of wyttes. &c. and that was where a cuſtom oꝝ vſage, oꝝ other thing hath bene vſed, fro tyme wherof mynde of man runneth nat to the contrary.

¶ And they haue ſayde, that this is prouyd by the pleadynge, where a manne wylle pleade a tytle of Preſcription of Cuſtome, In this caſe he ſhall ſaye, that ſuche cuſtome hath bene vſed fro tyme wherof the memoꝝ of menne rounnethe nat to the contrarye, that is as moche to ſaye, whan ſuche a matter is pleaded, that no man than aliuē hath hard one pꝛoſe to the cōtrarie, noꝝ hath no knowlege to the cōtrary. And in ſo moche, that

Cap. 10.

Westm. i.  
cap. 38.

Title of pꝛeſcription.



## LITTLE LIB. II.

**Cap. II.** that suche title of prescription was in the common lawe, and nat put out by none estate. Ergo it abydeth as it was at the common lawe, and the sooner in so muche that the sayde lymittation of a wytte of ryghte &c. is of no longer time passed. Ideo quere de hoc. and many other customes and vsages haue suche ancient boroughes.

**Inquyre.**

Also euery borough is a towne, but nat to the contrary, more shall be sayde of customes in the tenure of villenage.

### Villenage. Cap. xi.

**How some hold in villenage and be noo villaynes.**

**T**enure in villenage is mooste properly whan a villayne holdeth of his lord, to whome he is villayne, certayn landes and tenementes after the custome of the maner, or elles at the wyll of his lord, and to do to his lord villayn seruike, as to beare, byng, and cary out the dunge and fylthe of the lord, out of the citie or manour vnto the lande of his lord, there to lay it, cast it, and sprede it abrode vppon the lande, and to doo suche other maner of seruike. And some free tenauntes holde theyr tenementes after the custome of certayne manours by suche seruices, and their tenure is called tenure in villenage, and yet they be no villaynes. For no lande holden in villenage or villayne landes, or any custome rysyng of the lande, shall neuer make free man villayne. But a villayne may make free lande to be villayne lande to his

his lord.

**¶** As yf a vyllayne purchase lande in fee simple or in fee taylor, the lord of the vyllain may enter into the lande, and putte out his vyllayne and his heyres for ever, and after the lord yf he wyl, may let the same lande to the vyllayne to holde in villenage.

**¶** Also yf a feoffement be made to a certayne person or persones in fee to the vse of a vyllayne, or if a vyllayne, or any other persones be enfeofed to the vse of a vyllayne, what estate so ever the vyllayne hath in the vse, in fee taylor, for terme of lyfe, or yeres, the lord of the vyllayne maye entre in all those landes and tenementes, lykewyse as yf the vyllayne had beene alone seised of the demesne. And that is by the statute of anno. 19. H. 7. capit. 15.

**¶** But if a free man wylle take any landes or tenementes to holde of his lord by suche vyllayne seruyce, that is to saie, to paie a fine to his lord for his mariage, or for the marriage of his sonne, or his daughter, than shall he paye suche a fyne for the marriage. &c. for that it is the folie of suche a free man to take in suche forme landes or tenementes, to holde of his lord by suche bondage, yet that maketh nat the free man a vyllayne.

**¶** Also every vyllayn either he is a vyllayne by prescription, that is to say, he and his ancestors haue ben villaines tyme out of mynd, or he is vyllayne by his owne confession in court of record.

Distinction of  
a villayne.  
C. II. H. 4

But



## Cap. II.

**B**ut if a free man haue diuers issues, and after confesteth hym self to be vyllyn to an other in court of recozde, yet his issues whiche he hath before the confession, be free, but the issue, whiche he shall haue after the confession. &c. shall be vyllynnes.

what man  
of land pur  
chased by  
a vyllynne  
is good.

**A**lso yf a vyllynne pourchace landes, and alpeneth the same landes to an other before his lordes entre, than the lord may nat enter. For it shall be iudged his owne folpe, that he entred nat whanne the lande was in his vyllynnes handes.

**A**nd so it is of his other goodes, for if the vyllynne bye and selle, or gyue goodes to an other, before that the lordes sease the good, than the lordes may not sease them, but if the lordes before any suche sale or gyfte, comethe within the howre of the vyllynne, where suche goodes be, and there openly amonge the neyghbours clayme the same goodes to bee his, and soo seisseth parcell of the same, in name of seissyn of all the goodes. &c. This is sayde a good seissyn in the lawe. And the occupation that the vyllynne hath, after suche clayme in the goodes, shall be taken in the lawe in the ryghte of the lordes. But yf the kynge haue a vyllynne that pourchaseth landes, and alpeneth before that the kynge enter, yet the kynge maye entre into the lande, into whose handes soo euer the lande cometh. Or yf the vyllynne bye goodes, and sellyth theym before that the kynge seisseth the goodes, yet the kynge maye seisse theym

A good sei  
syn.

theim, in whose handes so euer they be, Quia nullum tempus occurrit regi, for noo tyme renneth agaynst the kynge.

Cap.ii.

Maxime.

**A L S O** yf a man let lande to an nother for terme of lyfe, sauyng the reuercion to hym, and a byllayne pourchaseth of the les-our the reuercion, in this case it semeth that the lord of the byllayne maye incontinente come to the lande, and claym the same reuercion, as lord of the same byllayne, and by this clayme the reuercion is incontinente in hym, for in any other fourme he maye nat come to the reuercion, for he maye not entre vpon the tenant for terme of lyfe: and yf he ought to abyde tyll after the deathe of the tenaunt for terme of lyfe, thanne happely he myghte come to late. for peradventure the byllayne will graunt or alyene the reuercion to an other, in the lyfe of the tenant for terme of lyfe.

When the lord shall clayme reuerciō and auowson purchasyd by his villayne.

**I N** the same maner it is, where a byllayn pourchaseth the auowson of a churche fulle of an Incumbente, the lord of the byllayne maye come to the sayde churche, and clayme the sayde auowson. And by this clayme the auowson is in hym, for yf he ought to abyde tyll after the deathe of the Incumbent, and than present his clark to the sayd churche: Than in the meane tyme the byllayne myghte alyene the auowson. .ic. and so put out the lord from his presentacion.

**A L S O** there is a byllayne regardaunt, and a byllayne in grosse. Villayne regardaunt is Villayn rias gardaunt.

Diuision.

as gardaunt.



LITTEL. LIB. II.

Cap. II.

as if a man be seised of a manour, to whiche a villayne is regardant, and he that is seised of the sayd manour, or they whose estate he hath in the same manour, have been seised of the sayde villayne, and of his auncesters, as villaynes regardant to the manour, from tyme out of mynde.

Villayn in  
grosse.

¶ And villayne in grosse is where a man is seised of a manour, to the whiche a villayn is regardant, and he graunteth the same villayn by his dede vnto an other, than he is villayn in grosse, and not regardant.

¶ Also yf a man and his auncesters, whose heire he is, hath been seised of a villayn and of his auncesters, as villayns in grosse, tyme oute of mynde, suche bee villaynes in grosse.

A forme of  
prescriptio

¶ AND note well, that of suche thynges, whiche may nat be granted nor aliened, without dede or tyme, a man that wyll haue suche thynges by Prescription, may not otherwise prescribe but in him and his auncesters, whose heire he is, and not by these wordes in hym, in those, whose estate he hath, for that that he may nat haue theyr estate without dede or other wrytyng, the whiche behoueth to be shewed to the courte, yf he wyll haue any advantage of this, and because that the grant and the alienacion of a villayn lieth nat without dede or other wrytyng, a man may nat prescribe in a villayne in grosse without shewing of wrytyng, but in hym selfe that claimeth the villayne, and in his auncesters, whose

whose heire he is. But of those thynges, whiche be regardant or appendant to a manour, or to other landes or tenementis, a man may prescribe, that he and they, whose estate he hath, were seased of the manour, or of suche thynges, as regardantes or appendantes to the manour, or to suche landes and tenementes. &c. from tyme out of mynde. And the cause is for this, that suche a manour, landes, and tenementes may passe by alienation without dede. &c.

¶ And it is to wytte, that nothyng is named Regardant to a manour, but a byllayn. But certayne other thynges as auowsons, and commune of pasture. &c. be named Appendantes to the manour, or to other landes and tenementes.

¶ ALSO yf a manne woll in courte of recorde, knowlege hym selfe to be a byllayn, that neuer was byllayne before, suche one is byllayne in grosse.

¶ Also a man that is byllayne, is callyd byllayne, and a woman that is byllayne is callyd nyef, as a man that is outlawed is callid an outlawe, and a woman that is outlawed is callid a wayue.

¶ Also if a byllayne take a free woman to wyfe, the issues betwene them shalbe byllaynes. But yf a nyefe take a free man to husbände, their issue shal be free. And that is contrary to the law ciuile, for there it is said that partus sequitur ventrem.

¶ Also no bastarde may be byllayne, but yf

Regardant

Appendant

In grosse.

Nyefe and wayue.

Iust. lib. 1. tit. de ingenuis, Sufficit aut libram fuisse matrem.



Spiritus.

that he wpll knowlege him selfe to be a villa  
 leyne in courte of recorde, for he is in the  
 lawe, Quasi nullius filius, as the sonne of no  
 mā, for that he may be enheritour to no mā.

¶ Also every vyllayn is able and free to sue  
 all maner of actions agaynste every person,  
 excepte agaynste his lord, to whome he is a  
 vyllayne, and yet certayne actions he may  
 haue agaynste his lord. For he may haue a  
 gainste his lord an action of appeale, for  
 the deathe of his father, or of his other an  
 cesters whose heire he is.

When the  
 villain shal  
 haue actiō  
 of dette or  
 trespasse a  
 gainste his  
 lord.

¶ Also a niece which is rauyshed by her lord  
 may haue appeale of rape agaynste hym.

¶ Also if a vyllayne be made executour  
 to an nother, and the lord of the vyllayne  
 was indetted to the testatour in a certayne  
 somme of money, the whiche is nat payde, in  
 this case the vyllayne as executour to the tes  
 tatour, shall haue an action of dette against  
 his lord, by cause he shall nat recouer the  
 dette to his proper vse, but to the vse of the  
 testatour.

¶ Also the lord may nat take out of the pos  
 sessiō of suche a vyllayne, that is execu  
 tour of the goodes of the deade, and yf he  
 doo, the vyllayne as executour shall haue an  
 action of trespasse agaynste his lord for the  
 same goodes soo taken, and recouer dama  
 ges to the vse of the testatour.

Protesta  
 tion.

¶ B V T in all these cases it behouethe the  
 lord whych is defendaunte in suche acti  
 ons to make Protestatyon, that the playn  
 tiff

type is his byllayne, or elles the byllayn shall be fraunchysed, though the matter be found for the lord, and agaynste the byllayne, as it is sayde.

**¶ ALSO** if a byllayne sewe an action of trespass or other action agaynste his lord in one shyre, and the lord sayth, that he shal nat be answered for that he is byllayne regardant to his manour in an nother shyre, and the playntife saythe, that he is franke, and of free estate, and no byllayne, this shall be tried in the shyre where the playntyf hath conceived his action, and nat in the shyre, where the manour is, and this is in fauour of lybertie, as it is adiudged. **Ed. 4. Ed. the thirde.** And for this cause was made a statute in the .ix. yere of Rycharde the second cap. 2. the tenure of whiche ensweth in such forme.

**¶ ALSO** for that where manye byllaynes and nyefs, as well of great lordes as of other folke, as welle spyrituall as temporall, flee and goo into cities, townes, and places fraunchysed, as the cite of London and other lyke places, and fayne dyuers suites agaynste their lordes, bycause they wold make theym selfe to be enfranchysed, by the answer of theyr lord, it is accorded and assented, that the lordes nor none other shall be forbarred of their byllaynes, bycause of theyr answer in the lawe.

**¶ By force of whiche statute** if any byllayn wyll sue any maner of action to his owne

**Tryalle of  
villenage.**

**The wordes of the  
statute.**



use in any wyse where it is harde to trye. &c. against his lord, his lord may chose to plede that the plaintife is his vylayn, or to make protestation that he his is villayn, & to plede an nother matter in barre, and yf they be at issue, and the yssue be founde for the lord, than the vylayne is vylayne as he was before, by force of the same estatute. But if the yssue be founde for the vylayne, than is the vylayne franke and free, for that the lord toke nat at the begynnyng for his plee, that the vylayne was his vylayn, but toke it by protestation.

wherefore a  
vylayne  
maye nat  
sue an ap-  
peale of  
mayme a-  
gaynst his  
lord.

¶ Also the lord may nat mayme his villain, for if he mayme his vylayn, he shall of that be endited at the kynges suit. And if he be of that attaynte, he shall for that make greuous fyne and raunsome to the kyng. But it seemeth, that the vylayne shall nat haue by the lawe any appele of mayme against his lord, for in appeale of mayme a manne shall nat recouer but his damages. And if the vylain in that case recouer damages against his lord and hath thereof execution, the lord maye take that that the vylayne hath in executi- on fro the vylayne, and so the recouere standeth voyde.

¶ Also if the vylayne be demandant in an action royal, or playntife in an action personall agaynst his lord, yf the lord wyl plede in disabilitie of his person, he may nat make playne defence, but shall defend but the wrong and the force, and demande iudgement if he shall

shall be answered, and shewe his matter by  
and by howe he is vllayne, and demaunde  
iudgement if he shall be answered.

¶ Also. vi. maner of men there be, agaynste  
whome if they sue actions. &c. Iudgemente  
may be asked, if they shall be answered. One  
is where the vllayn sueth action. &c. against  
his lord, as in case aforesayde. The seconde  
is where a man is outlawed vpon an action  
of dette or trespass, or vpon any other acti-  
on or inditement, the tenaunte or the defen-  
dant may shewe all the matter of record, and  
the outlawrie, and demaunde iudgement if  
he shall be answered, bycause that he is oute  
of the lawe to sue any action, durynge the  
tyme that he is outlawed. The thirde is wher  
an alpen that is bozne out of the allegiaunce of  
our souerayn lord the kyng, if such alpen sue  
any action royall or psonall, the tenat or des-  
fendant may say, that he was bozne in such  
a countrey, whiche is out of the kynges al-  
legiance, and aske iudgement, if he shall be  
answered. The fourthe is where a man by  
iudgement gauen agaynst hym vpon a wryte  
of Premunire facias. &c. is out of the kyn-  
ges protection, if he sue any action, and the  
tenaunt or defendaunt shewe all the recoorde  
agaynste hym, he maye aske iudgement if he  
shall be answered: for the law and the kyn-  
ges wryttes bene the thynges, by whiche a  
man is protecte and holpen, and so durynge  
the tyme that a man in suche case is out of  
the kynges protection, he is out of the helpe

Ad abilitate  
Villayne.

an outlaw

An alpen  
bozne.

A man con-  
demned in  
in pmanit.



**I religio  
manne.**

and protecte by the kynges lawe, or by the kynges wytte. The fyrste is where a man whiche is entred and professed into religion, sueth an action, the tenant or defendant may shewe, that suche one is entred into religion in suche a place, into the order of saynte Benedict, and is there a monke professed, or in the order of fryers mynours, or preachers and is there a fryer professed, and so of other orders of religion. &c. and aske iudgement yf he shall be answered,

**AND** the cause is for this, that whan a manne entreth into religion, and is professed, he is deade in the lawe. And his sonne, or nexte consyne incontynente shall inherite hym as well as though he were dead in dede, and whan he entreth into religion, he maye make his testament, and his executors, and they may haue an action of dette due to hym before his entrie into religion, or any other action that executors may haue, as if he were deade in dede. And if he make none executors whan he entreth into religion, than the ordynarie may commytte the admynistration of his goodes to other men, as if he were dead in dede. The. vi. is where a man is accursed by the lawe of holy churche, and he sueth an action reall or personall the ternaunt or defendant may pleade, that he that sueth is accursed: and of this it becometh hym to shewe the byshoppes letters vnder his seale, wytnessynge the accursynge and aske iudgemente, if he shall be answered

**I mā excō  
municate.**

ted. &c. But in this case if the demandant  
or playntiffe can nat denye it) the writt shall  
nat abate, but the iudgement shall be, that  
the tenant or defendandt shall go quyte with-  
out daye for this, that whan the demandant  
or playntiffe hath purchased his letters of  
absolution, and sheweth them to the courte,  
he maye haue a resommens or a reattachement  
vpon his originall, after the nature of  
his writte. &c. but in the other fyue cases the  
writte shall abate. &c. if the matter shewed,  
may nat be gaynesayde.

Also if a vyllayn be made a secular priest,  
yet his lord may sease hym as his vyllayne,  
and sease his goodes. &c. But it semeth, that  
yf the vyllayn entre into religion, and is pro-  
fessed. &c. that the lord maye nat take hym  
nor sease hym, for that he is dead in the law,  
no more than if a free man take a nief to his  
wyfe, the lord may nat take ne sease the wife  
of the husbände. But his remedy is to haue  
an action agaynst the husbände, for that he  
toke his nief to wyfe without his wyll and  
lycence. And so may the lord haue an action  
agaynst the souerayne of the house, that taketh  
and admytteth his vyllayne to be pro-  
fessed in the same howse, withoute lycence  
and wyll of his lord. &c. and shall recouer  
his damages to the valewe of the vyllayne,  
for he that is professed monke. &c. shall be a  
monke, and as a monke shall be taken for  
terme of his lyfe naturalle, excepte he be  
derayned by the lawe of holye Church.

H. II. R. 2.

F. III.

AND



and he is holden by his religion to kepe his cloyster, and if the lord may take hym oute of his house, than he shoulde nat lyue as a deed persone, noꝝ after his religion, whiche shulde be inconuenient. &c.

The fauor  
of religion

**L**ikewise if there be wardayne in chivalrie of body, and of lande of a chylde within age, if the chylde whan he commeth to the age of .xiiii. yeres, entre into religion, and is professed, the wardayne hath none other remedye, as to the warde of the bodye, but a writte of ransyement of warde agaynst the souerayne of the house. And if any being of full age, that is cousyne and heyre vnto the chylde entre into the lande, the warden hath no remedye as to the warde of the lande, by cause that the entre of the heire of the childe is laufull in suche cause.

**A L S O** in many diuers cases the lord may make manumission and enfranchysynge to his vylayne.

Manumissio  
sio explicita.

**M**anumission is properly whan the lord maketh his dede to his vylayne to enfranchise hym by this worde manumittere, whiche is as moche to saye, as extra manum, & extra potestatem alterius ponere, as to put hym out of the handes and the power of another. And for this that by suche a dede the vylayne is put out of the hande and power of his lord, it is callyd Manumission.

Manumissio  
implicita.

And so euery maner of enfranchysynge made to a vylayne, may be sayde a manumission.

**A L S O** I F the lord make to his vylayne

layne an obligation of a certayne somme of moneye, or graunte vnto hym by his dede an annuities, or let hym by his dede landes or tenementes for terme of yeres, the vyllayne is enfranchised.

¶ Also if the lord make a frossment to his vyllayne of any landes or tenementes by dede or without dede in fee simple, fee tayl, or for terme of lyfe, or for terme of yeres, and delivereth vnto hym seisin, this is an enfranchisinge. but if the lord make to hym a lease of landes or tenementes to holde at the wylle of the lord by dede or without dede, this is no enfranchisinge, for that he hath no manner of certaintie nor suretie of his estate, but that the lord may putte hym oute when he wylle.

No enfranchisinge.

¶ Also if a lord sue agaynst his vyllayne a Precipe quod reddat, yf he recouer, or be no suite after apparance, this is a manumission. for this that he maye lawfullye enter into the lande without suche suite.

¶ In the same maner it is, if he sue agaynst his vyllayne an action of dette, or of accorde, or of covenant, or of trespass, or suche other, this is an enfranchisinge. .i.e. for this that he maye enprison his vyllayne, and take his goods without suche suite.

¶ But if the lord sue his vyllayne by appeale of felonie, where he was endited there of before, this is no enfranchisinge to the vyllayne, though the matter of the appeale is founde agaynst the lord, because that the

None enfranchisinge



lord may nat haue the byllayn hanged with-  
out suche sayte But if the byllayne were nat  
endoyted of the same felony befoze the appele  
sued agaynst hym, and after is acquitted of  
the sayde felonye, than he shall recouer da-  
mages agaynst his lord for the fals appele.  
And in this case the byllayne is enfranchysed,  
bycause of the iudgemente of damage  
that was gyuen to hym agaynst his lord.  
And moze cases and matters there be, by the  
whiche a byllayne may be enfranchysed a-  
gaynst his lord. Sed de illis quere.

**Irrita pre-  
scriptio.**

¶ Also if a lord of a manour wyl prescribe,  
that it hath ben accustomed within his ma-  
nour tyme out of mynde, that every tenant  
within the same manoure, that marieth his  
doughter to any man without lycence of the  
lord of the manour, shall make fyne to the  
lord for the tyme beinge, this prescription  
is voyd. For none ought to make such fines  
but only byllaynes, for every free man maye  
frely mary his doughter, to whom it pleseth  
him and his doughter. And bicause that this  
prescription is agaynst reasone, suche pre-  
scription is voyde.

**The custome  
of Gavel-  
kynde.**

¶ But in the shyre of Kente of landes and  
tenementes holden in Gavelkynd, where by  
the custome it hath bene vsed tyme oute of  
mynde, that the chyl dren males ought euens-  
ly to enherite, whiche custome is allowable  
for this that it is with some reason, bycause  
that every sonne is as greatte a gentylman,  
as the elder sonne, and by reason that moze  
greatte

greate honoure and valour shall growe to  
suche chylde, than if he had nothyng by his  
auncesters, where peraduenture he myghte  
nat so growe. &c.

Also where by custome callyd borough en-  
glish in som borough the yonger sonne shal  
enherite all the tenementes. &c. This custom  
also standeth with reason, bycause that the  
yonger sonne if he lacke father and mother,  
bycause of his yonge age may lesse of all his  
brytherne helpe hym selfe. &c. But if a man  
wyl prescribe, that yf any cattell were vpon  
the demenes of his manour, there doyng da-  
mage, that the lord of the manour for the  
tyme venge hath vsed, to destrayne theym,  
and the dystresse to retayne tyll fyne were  
made to hym for the damages at his wylle,  
this prescription is voyde, bycause it is a-  
gaynst reason, that if wronge be done to a  
man, that he therof shuld be his owne iudge,  
for by suche waye if he had damage but to  
the value of an halfe peny he myght assesse,  
and haue therfore an. *℥. li.* whiche shoulde  
be agaynst all reason. and so suche prescrip-  
tion or any other prescription vsed if it be a-  
gainste all reason, this ought nat nor wylle  
nat be allowed before Judges. *Quia malus  
usus abolendus est.*

The custome  
of borough  
englyshe.  
*Iniqua pre-  
scriptio.*

**Rentes. Cap. xii.**

**T**he maner of rentes there be, that is  
to say, rent service, rent charge, & rent  
secke. Rent service is where a manne  
holdeth

*Diuisio.  
Rente ser-  
uice.*



holdeth his lande of his lord by fealtye, and certayne rent, or by homage, fealtye, and certayne rent, or by other seruices and certayne rent. And if rent seruyce at any day, that is ought to be payde, be behynde, the lord may distrayne for that of common right.

¶ And if a man nowe wylle gyue landes or tenementes to an other in taylor, yeldynge to hym certayne rente by yere, he of common ryght maye distrayne for the rente behynde, though that suche gyfte was made withoute a dede, bycause that suche rente is Rente seruyce.

¶ In the same maner it is, if a lease be made to a man for terme of his lyfe, or an others lyfe, yeldynge to the lessour certayne rente, or for terme of yeres, yeldynge certayn rent &c. but in suche case where a man vpon suche a gyfte or lease wylle reserue to hym rente seruyce, it behoueth that the reuercyon of the landes and tenementes be in the donour or in the lessour, for if a man wyl make a feofment in fee, or wyl giue landes in taylor, the maynder ouer in fee simple without a dede, reseruyng to hym certayn rent, suche reuercion is in the donour, and suche a tenaunte holdeth his lande immediately of the lord, of whome his donour helde.

The com-  
mon lawe  
before the  
statute.

¶ And this is by force of the statute of westmister. 3. cap. 1. Quia emptores terrarum, for before the same estatute if a man made a feofment in fee simple by dede or without dede, yeldynge to hym and to his heires certayne rent

rent, this was rent seruyce, and for this he myght dystayne of common ryght. And yf he made no reuercion of any rent, nor of any seruyce, yet the feoffee held of the feoffour by suche seruices, as the feoffour helde ouer of his lord nexte aboue.

Rente charge.

¶ But if a man by dede indented at a daye make suche a gyfte in the tayle, the remaynder ouer in fee, or a lease for terme of lyfe, the remaynder ouer in fee, or a feoffement in fee, and by the same endenture reserue the to hym and to his heires, a certain rent, and that if the rent be behynde, that it shall be lefull to hym and to his heires to dystayne &c. Suche rent is rent charge, bycause such landes and tenementes be charged of suche distresse by force of the wrytyng onely, and nat of common right.

Rent secke.

¶ And if suche a man in suche a dede endented, reserue to hym and to his heires certayn rent without any suche clause sette or put in the dede that he may dystayne. &c. than such rent is rent secke, bycause that he can nat dystayne to haue the rent, if it be denied by the same distres, and if he was neuer sealed in this case of the rent, he is without remedy as shalbe sayde hereafter in this chapter.

¶ Also if a manne sealed of certayne lande, graunt by his dede, worde, or by endenture a perely rent issuing out of the same land to another in fee simple, or in fee tayl, or for terme of lyfe. &c. with clause of distresse. &c. thanne this is rent charge, and if the grant be without

oute



out clause of distresse, than it is rent secke. And note well that rent secke, *Idem est quod redditus fixus*, for that that noo distresse is incident to it.

**Annuittie.**

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**A**lso if a man by his dede graunte rente charge to an other, and the rent is behynde, the grauntee maye chose yf he wylle sewe a wyttie of annuittie of it agaynste the grauntour, or distrayne for the rent behynde, and the distresse to withholde tyll he be of that payde. But he maye nat do and haue bothe together, for if he recouer by wyttie of annuittie, thanne the lande is discharged. And if he sue nat a wyttie of annuittie, but distrain for the arrerages, and the tenaunt seweth a *Replegiare*, *ic.* and the grauntee auoweth the takynge of the distresse in the lande, *ic.* in courte of recoorde, than is the land charged, and the persone of the grauntour dyscharged of an action of annuittie.

**Cloppell.**

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**A L S O** if a man wyl that an other shall haue rent charge issuyng out of his landes, but he wyl nat that his person shall be charged in any maner by a wyttie of annuittie, than he may haue suche a clause in the ende of his dede, *Prouiso semper quod presens scriptum nec aliquid in eo specificato non aliquo aliter se extendat adonorandum personam meam, per breue vel actionem de annuali redditu.*

**Prouiso.**

*Sed tantummodo adonerand' terras & tenementa predicta, de annuali redditu predicto,* than is the lande charged, and the person of the grauntour dyscharged.

**Wille.**

¶ Also if a man make suche a dede in suche maner, that yf A. of B. be not perelye payde at the feest of Christmas for terme of his life of .xx.s. of laful money, that than it shall be lesul to the sayd A. of B. to distrayn for it, in the manor of .f. &c. this is a good rēt charge bycause that the manour is charged with the rent by waye of distres, and yet the personne him selfe that made suche a dede, is discharged in this case of an action of annuittie, by cause that he graunted nat by his dede anye annuittie to the sayde A. of B. but graunted only that he may distrayne for his annuittie.

¶ Also if a man haue a rente charge to hym and to his heires, issuyng oute of certayne lande, if he purchase any parcell of the land to hym and to his heires, all the rente is extinct, and the annuittie also, bycause that rēt charge may nat in suche maner be apporcioned, but if a man that hath rent seruice purchase parcell of the land, wherof the rent is going out, this shal nat extinct al, but for the porcion, for the rent seruice in such case may be apporcioned, & shall be apporcioned after the value of the lāde. But if a tenant holde his land by seruice to yelde to his lord perelye at suche a feaste an hors, or an hauke, or such thyngge semblable, yf in suche case the lord purchase parcell of the lande, the seruice is gone, bycause that suche seruyce maye nat be seuered nor apporcioned. ¶ But yf a man holde his lande of an nother by Homage, Fealtie, and Escuage, and by Certayne

Extinct  
Quemint.

rente



rente, yf the lord purchase parcell of the lande. &c. in suche case the rent shall be apportioned, as is aforesayde. But yet in this case the homage and fealty abydeth hool to the lord, for the lord shall have the homage and fealty and of his tennant for the remenant of landes and tenementes holden of hym, as he had before. &c. for this that suche seruyces be no annuell seruyces, and maye nat be apportioned. But the escuage may and shalbe apportioned after the quantyte and rate of the lande.

Rent charge apportioned.

**¶** ALSO yf a manne have a rent charge, and his father purchaseth parcell of the tenementes charged in fee and dyeth, and that parcell descendeth to his sonne that hath the rent charge, now this rent charge shall be apportioned after the value of the landes as is aforesayd of rent service, bycause that suche a porcion of the lande purchased by the father cometh nat to the sonne by his own dede, but by discent, and course of the lawe.

**¶** ALSO if there be lord and tenant, and the tenant holdeth of his lord by fealty and certayne rente, and the lord graunteth the rent by his dede to an other. &c. keepynge to hym the fealty, and the tennant attorneth to the grauntee of the rent, now this rente is rente secke to the grauntee, for this that the tenementes be nat holden of that graunt of the rent, but be holden of the lord that receyved to hym the fealty.

**¶** And in the same maner it is where a man hold

holdeth his land by homage, fealtie, and certayne rente, if the lord graunt the rent, saving to hym the homage, suche rent after such the graunt is rent secke.

¶ But where landes or tenementes ben holden by homage, fealtie, and certayne rent, yf the lord wyll graunte the homage of his land by his dede to an other, savinge to hym the remenant of the services, and the tenant attournethe to hym after the fourme of the graunte, now in this case the tenant holdeth his lande of the grauntee, and the lord that grauntethe the homage, shall nat have but the rente as rent secke, and shall never distrayne for the rente, for this that neyther homage, nor fealtie, nor escuage may be sayd secke, for no suche service may be sayd secke, for he that hath or oughte to have of his tenant homage or fealtie, or escuage, maye of common ryght distrayne for it, if it be behynde. For homage, fealtie, and escuage bene services, by whiche landes and tenementes be holden. &c. and be suche that in no maner may be taken but as services.

¶ But otherwise it is sayd of rent, that was ones rent service, for this that whan it is severed, by the graunte of the lord, from the other services, it may nat be sayde rent service, for this that he hath nat to it fealtie, whiche is incident to every maner of rent service: and for this it is sayde rent secke, if the lord can nat graunt suche rent with distresse, as is sayde.



**A**lso yf a man lette lande to an nother for terme of lyfe, reseruyng to him certayn rent, if he graunt the rent to an other by his dede, sauyng to hym the reuercion of the lande so letten. &c. suche rent is but rent secke, for this that the grauntee hath nothyng in the reuercion of the lande. But if he grant the reuercion of the lande to an other for terme of lyfe, and the tenant attorneth. &c. than hath the grauntee the rent as rent service, by cause he hath the reuercion for terme of lyfe.

**A**nd so it is to be vnderstand, that if a mā gyue landes or tenementes in the taile, reseruyng to hym and his heyes certayne rente, or lette lande for terme of lyfe, reseruyng certayne rente, if he graunte the reuercion to an other, and the ternaunt attorneth, all the rent and service passeth by the woꝛde of the graunt of reuercion: for this that al the rent & service in suche case be incidentes to the reuercion, and passe by the graunt of the reuercion. But though he graunt the rente to an other, the reuercion passeth nat by such grant &c. And so note well the diuersitie. And it is holden D. 12. C. 4. But it is adiudged An. 26. li. assisarum, where as the seruyces of the tenant in taile were granted, that this was a good graunte, yet nat withstandynge the reuercion remayneth.

**A**lso if there be loꝛde, mesne, and tenant, and the ternaunt holdeth of the mesne by the rente of. v. s. and the mesne holdethe ouer by xii. d. if the loꝛde aboue purchase the tenancy  
in

In fee, thanne the seruyte of the mesnaltie is  
extincte, for this that whan the lord above  
hath the tenancie he holdeth of the lord nexte  
above hym. And if he ought to hold it of hym  
that was mesne, than he shoulde holde one  
fesse tenancy immediately of dyuers lordes,  
whiche shulde be inconueniente, and the lawe  
wyl sooner suffer a mischief than an incon-  
uenience. And for this the seignory of the  
mesnaltie is extincte, but in soo moche that  
the ternaunt helde of the mesne by .v. s. and  
the mesne held but by .xii. d. so that he hadde  
more aduantage by .iiii. s. than he payde  
to his lord, he shall haue the sayd .iiii. s. as a  
rente secke yerelye of the lord that purcha-  
sed the tenauncie.

Capitulum.

Maxime.

hup. 111111  
m. 111111

¶ Also if a man that hath rent secke is ones  
seised of any parcell of the rent, and after  
if the tenant wyl nat paye the rent that is  
behynde, this is his remedye, It behouethe  
hym to go by hym selfe, or by an other to the  
landes and tenementes, wherof the rent is  
issuyng, and there to demaunde the arrera-  
ges of the rent, and if the ternaunte denye to  
pay it, this denyng is a disseisyn of the rent.  
¶ Also if the ternaunt at the tyme be nat redye  
to pay it, this is a denyng and a disseisyn.  
¶ Also if the tenant nor none other be dwel-  
lyng vpon the landes or tenementes to pay  
the rent, whan he asketh the arrerages. i.e.  
this is a denyng in lawe, and a disseisin in  
dede, and of suche disseisyns he maye haue  
an assise of nouell disseisyn agaynste the te-

Remedy.

G u                      nant



L I T T E L . L I B . I I .

Cap. 12.

maunte, and recouer the seiscyn of the rent and the arrerages, and his damages and costes of his writte and of his plee. &c. And if after suche recouerie and execucion hadde, the rente be an other tyme denyed hym, than he shall haue a reddisseiscyn, and recouer double damages.

assisa equi  
nocum.

¶ And it is to be hadde in mynde, that this name assise is Equiuocum, for sometyme it is taken for a Iurie, for in the begynnyng of the recorde of assise of nouell disseiscyn, the recorde shall begyn thus, Assisa ven recogn &c. whiche is to say, that Iuratores ven recogn. And the cause is, for this that by the writte of assise, it is commanded to the shiriffe, quod faciat. xii. liberos & legales homines de vicineto. &c. videre tenementum illud, & nomina eorum in breuiari, & quod sum eos per bonos sum, qd sint coram iusticiariis &c. parati inde facere recogn. &c.

¶ And for this that by force of suche an original writte a pannelle by force of the same writte oughte to be retourned. &c. it is sayde in the begynnyng of the recorde in assise, Assisa ven recogn. &c.

¶ Also in a writte of ryghte it is commonly sayde, that the tenaunt may put hym in god, and in the greatte assise. &c.

¶ Also there is a write in the Register callyd De magna assisa eligenda, so is this a good profe, that this name assise sometyme is put for the iurie, and sometyme it is taken for all the writte of assise, and after that entente is

is most properly and most commonly taken, as a writ of assise of novel disseisin is taken for all the writte of assise of novel disseisin.

¶ In the same maner assise of common pasture is taken for all the writte of assise of common pasture, and assise of mortdauncester is taken for all the writte of assise of mortdauncester, and assise of darreyn presentement, is taken for all the writte of assise of darreyn presentement, but hit seemeth, that the cause is, why suche writtes at the beginning were callid assises, for this that by every suche writte it is commaunded to the Wysshe, that he common, xii. sc. whiche is as moch to say that he ought to common a Jurie. &c.

¶ And sometyme assise is taken for an ordinance for to sette certayne thynges in a certayne rule and disposicion, as an ordinance that is entred in the ancient estatutes is callid assisa panis & seruicie.

¶ Also if there be lord and ternaunte, and the lord graunteth the rente of his ternaunte by dede to an other, saynge to hym the other seruices, and the ternaunt attorneth, this is a rent secke, as is aforesayde. But if the rent be denied hym at the nexte day of payement, he hath no remedye, for this that he had nat therof any possession. But if the ternaunt whan he attourneth to the grauntie, or after wyll gyue a peny or an halfpeny to the grantee in the name of seisin of the rent, than if after at the next day of payment the

Writ of  
rent secke



LITTLE LIB. II.

Cap. 12.

rent be denied hym, he shall haue assise of no, uel disseyn.

¶ And so it is if a man graunt by his dede a yerey rent inuyng out of his lande, to an other. &c. If the grauntour than after paye to the grauntee a peny or an half peny in the name of seylsyn of the rente, thanne after the fyrste day of payment the rent be denied, the grauntee may haue assise or els nat.

¶ Also of rent secke a man may haue assise of mortdauncester, or a wytte of apell or cou- synage, and all other maner of actions re- als, as the case lyeth, as he may haue of any other rente.

Thre ma-  
ners of dis-  
seyn.

Rescons.

¶ Also there be. iii. causes of disseyn of rent scrupce, that is to say rescous, repleuyn, and enclosure.

¶ Rescons is whan the lord distrayneth in the lande holden of him for his rent behynd, yf the distres be rescued fro hym, or the lord come vppon the lande, and wolde distrayne, and the tenaunt or an other manne wyl nat suffer hym. &c.

Repleuyn.

¶ Repleuyn is whan the lord hath distrai- ned, and repleuyn is made of the distresse by writte or by playnt. &c.

Enclosure.

¶ Enclosure is if the landes and tenementes be so enclosed, that the lord may nat com within the lande and tenementes for to dis- trayne. And the cause why suche thynges so done be disseyns made to the lord, is for that that by suche thynges the lord is dys- courbed of the meane, by whiche he oughte

to haue had and come to his rente, that is to Cap. 124  
say, of the distresse.

**A**nd foure causes be of disseisyn of rente  
charge, that is to say, rescous, repleuyn, en-  
closure, and denier, for denienge is a dissey-  
syn of rente charge, as it is aforesayde of  
rente secke.

**A**nd two causes be of disseisyn of rente  
secke, that is to say enclosure and denyer.

**A**nd it seemethe, that there is an nother  
cause of disseisyn of all the thre rentes afores  
sayde, that is to saye, when the lord is go-  
ynge to the lande holden of hym, for to dys-  
strayne for the rente beyng behynde, and  
the ternaunt herynge thys, encountreth hym,  
and forstalleth hym the waye with force and  
armes, and manaceth hym in suche forme,  
that he dare nat come to the lande for to dys-  
strayne for his rent behynde. &c. for doubt  
of deathe or bodyly hurte, this is a dys-

seisyn: for this that the lord is dis-  
turbed of the meane, wher-  
by he ought to come to his  
rent, and so it is if by  
such forstallyng  
and manacs  
syng, he

that hath rent charge or rent secke  
is forstalled, or dare nat  
comme to the lande  
to aske the rent  
behynde.

**T**hus endeth the seconde boke.



Cap. I.

THE THIRD BOKE.

PARCENERS CAP. I.

Division.  
Parcesis  
by the com  
mon lawe



PARCENERS BE  
in two maners, that is  
to say, parceners after  
the course of the com  
mon lawe, and parces  
ners after the custome.  
¶ Parceners after the  
course of the common  
lawe be, where a man

or a woman sealed of certayn landes or te  
nementes, in fee simple, or fe tayle, hath  
none issue but daughters and dyeth, and the  
tenementes discende to the daughters, and  
the daughters entre into the landes and te  
nementes so to them discended, than they be  
callyd parceners, and be but one heir to their  
suncester. And they be callyd parceners, for  
this that by the writte that is callyd Breue  
de Participacione facienda, the lawe wylle  
constrayne that Particyon shall be made a  
monge them. And if there be two daughters,  
to whom the lande descendeth, than they be  
called two parceners, and if there be three  
daughters, thā they be callid thre parceners,  
and foure daughters foure parceners, and  
so forth.

¶ And if a man sealed of landes in fee sym  
ple or in fee tayle dye without issue of his bo  
dy begotten, and the tenementes discende to  
his sisters, they be callyd Parceners, as is  
afoye

aforsayde. In the same maner it is, where **Cap. I.**  
he hath no sisters, but the lande descendeth  
to his auncles, thes be parceners: but yf a  
man haue but one doughter, she may nat bee  
sayd parcener, but she shall be callyd dought-  
er and heyre.

**A**N D it is to wytte, that partition be-  
twene parceners may be made in diuers ma- **Dyuerse**  
ners, one is whan they agree to make parti- **maners of**  
tion, and make partition of the tenementes: **parceners.**  
as if there be two parceners, to deuyde be-  
twene them the tenementes in two partes, e-  
very parte by hym selfe in seueraltie of even  
value, and if there be thre parceners to dy-  
uide the tenementes in thre partes in se-  
ueraltie.

**A**n nother partition there is, to chose by  
agreement betwene theym, ~~some~~ certayne of  
theyr frendes, to make the partition of the  
landes and tenementes in the fourme aforsayde.

**A**nd in suche cases after suche partition,  
the elder doughter shall chose fyrste ~~one~~ of  
the partes so deuyded, whiche she wyl haue  
for her parte, and than the seconde doughter  
after her, her parte. &c. If it so be, that there  
be many sisters. &c. If it be nat that they  
be otherwise agreed bytwene theym, for it  
may be agreed betwene theym, that ~~one~~ of  
theym shall haue suche tenementes, and an  
other suche tenementes. &c. without any such  
former election.

**A**nd the parte that the elder syster hath, is  
callyd



# LITTEL. LIB. III.

Cap. I.

Enitia  
pars.

is callyd in latyn enitia pars, but if the par-  
teners agree, that the elder syster shall make  
particion of the tencmentes in the foyme as  
foresayd, and if she do, than it is sayde, that  
the elder syster shall chose laste her parte, af-  
ter eche of her other systers.

**I**n nother particion and allottynge there  
is, as yf there be .iiii. parteners, and after  
such particion made of the landes, euery part  
of the lande is by it selfe wrytten in a lyttell  
scrowe, & is couered all in waxe, in maner of  
a lytel ball, so that no mā may se the scrowe,  
and than the foure balles of waxe be put in  
a bonet to kepe in the handes of an indifferēt  
man, and than the elder doughter fyrst shall  
put her hande in the bonet, whyche shal take  
a balle of waxe, and the scrowe within the  
same balle for her parte, and than the second  
syster shall put her hande in the bonette, and  
shall take an other, and so than the thyrde si-  
ster, the thyrde balle. &c. And in this case it  
behoueth eche of them to holde them to their  
chaunce and allottement.

**A**L S O an other particion there is, as  
yf there be foure parteners, and they wylle  
nat agre, that particion shalbe made betwene  
theym, than one of them may haue a wytte  
de Participacione faciēda, against the other  
thre systers, or .ii. maye haue a wytte of Par-  
ticipacione faciēda, agaynst the other two,  
or the thirde of theym may haue a wytte of  
participacione faciēda, agaynst the fourth  
of theyr election.

And

from wy. 2

wy. 2

¶ And whan Jugement shall be gyuen by: Cap. I.

pon suche a wytte, the Judgemente shall be  
 suche, that particion shall be made bytwene  
 the parties, and the Shyreff in his proper per-  
 son shall go to the landes and tenementes. &c.  
 and that he by the othe of twelve true men of  
 his baylywyke, &c. shall make particion be-  
 twene the parties, the one parte of the same  
 landes shall be assigned to the playntife, or  
 to one of the playntifes, and an other parte  
 to an nother. &c. nat makynge mencion in the  
 iudgement of the eldeste syster more than of  
 the yongeste: And of the particion that the  
 Sheryffe hath thus made, he shall make no-  
 tice to the Justices. &c. vnder his seale, and  
 the seales of the. xii. &c.

¶ AND so in this case may ye see, that the  
 elder syster shall nat haue the fyrste election  
 &c. but the Shyresse shall assigne the part that  
 she shall haue. &c.

¶ And it maye be, that the Shyresse wyll as-  
 signe fyrste a parte to the yongest syster, and  
 the laste parte to the elder. And note welle,  
 that particion by agreement betwene parce-  
 ners, maye by the lawe be made amonges  
 theym, as welle by worde without dede, as  
 by dede. M. 3. C. 4.

¶ ALSO IF two meses dyscende to. ii.  
 parceners, and the one mese is worth by yere  
 xx.s. and that other but. x.s. by yere, in this  
 case particion may be made betwene theym,  
 in suche foyme, that the oone parccener shall  
 haue the oone mese, and the other parccener  
 shall



L I T T E L. L I B. I I I.

Cap. I.

rent charge

Distreined  
by comon  
ryght.

shall haue the other meese, and he that shall haue the meese of .xx. shillings and his heires, shall pay a yereley rent of .v. s. yf theynge out of the same meese, to the other parcener, and to his heires for euer, bycause that euery of the shall haue euen in value, and suche partition made by word is good inough. And the same parcener that shall haue the rente of fyue. s. and hys heires, may distreyn for the rent of common ryghte in the same meese of the value of .xx. s. yf the rent of .v. s. be behynde at any tyme, to whose handes so euer the same meese cometh, though ther was neuer wrytyng made of it betwene them of suche rent.

In the same maner it is of partition of all maner of landes and tenementes .xc. where suche rente is reserued to one or to dyuers parceners vpon suche partition. .xc. but suche rent is nat rent seruyce, but is rent charge of common ryghte had and reserued for egalte of the partition.

And note well, that none be callyd parceners by the common lawe, but womanne, or the heires of women, and whiche come by landes and tenementes by discent, for yf sisters purchase landes or tenementes, of this they bene callyd ioyntetenautes, and nat parceners.

Also if two parceners of lande in fee simple make partition betwene them. .xc. and the part of that one is moze worth than the part of the other, if they were at the tyme of partition of full age, that is to say of .xvi. yere. than

than the partition alway shall abide, and never be defeted: but if tenementes, wherof be made partitions, be to them in fee taylor, and the part that one hath is moche better in yerely value than the parte of the other, howe be it that they be excluded durynge theyr lyues to defete the partition, yet if the parceller that hath the leste parte in value hath issue and dyethe, the issue maye disagree to the partition, and enter and occupie in common that other part that was allotted to her aunt, & so the aunte may entre & occupie in comon that other parte allotted to her syster, as no partition therof had ben made. &c.

¶ Also if two parcellers of tenementes in fee take husbannes, and they and theyr husbannes make partition betwene them, yf the parte of the one be lesse in yerely value than the parte of that other, durynge the lyues of the husbannes, the partition shall be in his force and strengthe. And thoughe that it shall stande, durynge the lyues of the husbannes, yet after the dethe of the husbannes, the wyfe that hath the least part. &c. may enter in her systers part, as it is aforesayd, and defete the partition, but if the partition soo made betwene the husbannes, was suche, that eche parte at tyme of the lotment made was egall of yerely value, and withoute incumbrance of former titles, than it may nat after be defeted in suche cases.

¶ Also if there be .ii. parcellers, and the younger of them be within thage of .xxi. yere, and



## L I T T E L. L I B. I I I.

**Cap. I.**

**Cautio.**

**Indulgen-  
tia iuris in  
pupillos.**

particion is made betwene theym, so that the parte, that is allotted to the yonger, is lesse in value than the parte of that other. In this case the yonger, duringe the tyme of her nonage, and also whan she commeth to full age of .xxi. yere, maye enter in the porcion to her syster allotted. .xc. and defete the partycion. But such a parcener ought to take hede, whā she commeth to fulle age, that she ne take to her owne vse all the profites of the tenementes to her allotted, for thā she agreeth to the particion at suche age, in which case the particion shall stande and abyde in his force and strength. .xc. But peradventure the profittes of the halfe she may take, leaupnge the profytes of the other halfe to her syster. .xc.

**¶** And it is to wyte, that whan it is sayde males and females be of full age, that shall be vnderstanded of the age of .xxi. yere, for yf any feoffement or graunt, release, confirmation, oblygation, or any other wrytynge befoze any suche age be made by any of them .xc. or that any within suche age be bailiffe or receiuer to any man. .xc. all is for nought, and may be auoyded.

**¶** Also a man befoze suche age shall nat be swozne in no iurie nor in no inquisition.

**¶** Also yf any landes or tenementes be gyven vnto a man in the taylor, whiche hath as moche lande in fee symple, and hath issue. ii. daughters, and dyeth, and the daughters make particion betwene theym, soo that the landes in fee symple be allotted to the yonger daughter,

doughter, in allowaunce of the other landes  
or tenementes tayed, allotted to the elder  
doughter, yf after suche partition made, the  
yonger doughter alienethe the lande in fee  
symple to an nother in fee, and hath the yssue a  
sonne or a doughter, and diethe, the issue may  
entre in the tenementes tayed, and theym to  
holde in propriete with their aunte.

And this is for .ii. causes, one is for that the  
issue may have no remedy of the land aliened  
by his mother, for that that the land was to  
her in fee symple, and in so much that she is  
one of the heires in the taye, and hath no  
thyng recompensed of that that to her be-  
longeth of the tenementes tayed: For this  
cause it is reason, that she have her purparte  
of the tenementes in taye, and namely whan  
suche partition, maketh no discontinuance  
of the taye, as shall be saide hereafter in the  
chapter of discontinuance. But the con-  
trary is holden *20. H. 6.* that is to saye,  
that the heire may nat enter vpon the par-  
cener, that hath the lande tayed, but is putte  
to his formedone.

An nother cause is for that, that it shalbe  
arrested the folpe of the elder syster, that she  
wolde suffre or agree vnto suche partition,  
where she myght haue had, if she wold, halfe  
the lande in fee symple, and halfe of the te-  
nementes in the taye for her purpartie, and  
so to be sure without damage. &c.

ALSO yf a manne seyled in fee of a  
ploughe lande by iuste title, discafe the an  
infante

*Beu. 1102m*

*with him*

*Neckbe the*

*from the*



LITTEL. LIB. III.

Cap. I.

Infant within age, of an other plough lande,  
and hath issue. ii. daughters, and dyeth lea-  
sed of bothe these plough landes, the infant  
than beinge within age, and the daughters  
entre and make particion, so that the one  
plough lande is allotted to the purpart of the  
one, as percase to the yonger syster in allo-  
waunce of that other ploughe lande that is  
allotted to the purparte of that other, if that  
after the infante entreth in the ploughe land,  
of the whiche he was dysseised vpon the  
possession of the parcener, that hath the same  
plough lande, than the same parcener maye  
entre into that other ploughe lande, that her  
syster hath, and holdeth in parcenerye with  
her. but if the yonger syster alene the same  
plough lande to an other in fee simple, before  
the entre of the infante, and after the chylde  
entre vpon the possession of the alene, then  
she may nat enter in the other plough lande,  
for this that by her alienation she hath vtter-  
ly dysmyssed her selfe, to haue any part of the  
tenementes as parcener. But yf the younger  
syster, before the entre of the infante, make  
therof a lease for terme of yeres, or for terme  
of lyfe, or in fee taylor, sauyng the reuercyon  
to her, & after the chylde entreth, there perad-  
venture it is otherwise, for this that she dy-  
myssed nat her selfe of all that that was in  
her, but hath reserved to her the reuercion,  
and the fee symple. &c.

¶ Also if there be three or foure parceners,  
that make particion betwene theym, yf the  
part

William

Henry

## PARCENERS. 57

part of one parcener be defeted by such law: **Cap. i.**  
full entre, she maye enter and occupie the o-  
ther landes with all the other parceners, and  
compell them to make newe particion of the  
other landes betwene them. &c.

**A L S O** if there be two parceners, and  
the one taketh an husbāde. and the husbāde  
and the wyfe haue issue betwene theym, and  
the wyfe dyeth, and the housbāde holdethe  
hym in the halfe, as tenaunt by the curtesye.  
In this case the parcener that suruiveth, and  
the tenant by the curtesy, may wel make par-  
ticion betwene them. &c. And if the tenaunte  
by curtesye wyll nat agree to make particion,  
than the parcener that suruiveth, may haue  
agaynst the tenant by the curtesye, a writte  
de participacione facienda. &c. and compelle  
hym to make particion. But if the tenaunte  
by the curtesye, wyll haue particion made  
betwene them, and the parcener, that suruiv-  
eth wyll nat haue it, than the tenant by the  
curtesie, shall haue noo remedye for to haue  
particion, for he maye nat haue a writte de  
Participacione facienda, for this, that he is  
nat parcener, for suche a writ lieth for parce-  
ners alonely. And so ye may se, that the writ  
de Participacione facienda, lyeth agaynst te-  
naunt by the curtesye, and yet hym selfe may  
nat haue suche a writte.

**P**arceners by the custome.

**Capit. ii.**

**H**

**Parce-**



L I T T E L . L I B . I I I .

Cap. 2.

Gavel  
kind.

*Handwritten note:*  
Gavelkind

**P** Arceners by the custome be, where a man leased in fee symple or fee taylor of landes or tenementes, that be of the tenure called Gavelkind, within the shire of Kent hath issue dyvers sonnes, and dyeth, than suche landes and tenementes shall dyscende to all the sonnes by the custome, and they each ly shal enherite, and make particion betwene them by the custome, as females doo, and a wypt de participatione facienda, lieth in this case, as betwene females, but it behoueth in the declaration to make mencion of the custome. Also suche custome is in other places in Englande, and alsoo suche custome is in nothe wales.

Particio as  
lia a super  
rioribus.

**A L S O** there is an other particion that is of an other nature, and of an other forme than any of the particions aforesayde be, as if a man leased of certayn landes in fee symple hath issue two daughters, and the elder is married, and the father gyueth parcell of the same landes to the housbande with his daughter in franke mariage, and dyeth seised of the remenant, the whiche remenant is of moze and greater value by pere, than be the landes gyuen in franke mariage: In this case the husband nor the wyfe shall have nothyng for theyr parte of the sayde remenant, but if they wyll put theyr landes gyuen in franke mariage in hochepot, with the remenant of the land with her syster, and if they wyll nat do soo, than the yonger syster may

*Handwritten note:*  
Dy

may holde and occupie the same remenaunt, and take to her the profits onely: and it seemeth that this worde Hochepot, is in Englyshe a puddynge, for in suche a puddynge is nat commonly put one thing onely, but one thing with an other together, and for this it behoueth in suche case to put the landes gyuen in franke mariage, with the other landes in Hochepot, yf the husbande and the wyfe wyl haue any part in the other remenant. &c.

Hochepot:

¶ This worde Hochepot is but a terme of similitude, and is as moche to say, as to put the landes gyuen in franke mariage, and the other landes in fee simple together. And this is to suche entent, to knowe the value of all the landes, that is to saye, of the landes gyuen in franke mariage, and the remenant that was nat gyuen, and than particion shall be made in this forme that ensuyth.

¶ As putte case a man be sealed of. xxx. acres of land in fee simple, euery acre in value. xii. d. by the yere, whiche hath issue. ii. doughters, and the one is couerte baron, and the father gyueth. x. acres of the. xxx. acres to the housband with his doughter in franke mariage, and dyeth sealed of the remenaunt, than the other syster shall enter in the remenant, that is to saye, in the twenty acres, and shall occupie hit to her owne vse, excepte the housbande and the wyfe wylle putte theyr tenne acres gyuen to them in franke mariage with the other. xx. acres in Hochepote, that is to saye, together, and than whan the value is knowne



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known of every acre, that is to saye, every acre is yerely worth. xii. d. than the partition shall be made in suche forme, that is to saye, that the housband and the wyfe shall have aboue the. x. acres gyuen to theym in franke mariage. v. acres in severaltie of the. xx. acres, and that other sister shall have the remenant, that is. xv. acres of the. xx. acres, for her parte so that accomptynge the. x. acres that the husbände and the wyfe had by the gift in franke mariage, and the other. v. acres of the. xx. acres, the husbände and the wyfe have as much in yerely value as that other sister hath, and so alway vpon suche partition the landes gyuen in franke mariage abyde to the donees, or to theyr heires, after the forme of the gyfte. For yf the other parcener shoulde have nothyng of this that is gyuen in frank mariage, of this shoulde folowe an inconuenience, and a thyng agaynst reason, that is to say, the franke mariage shoulde be made voyde, whyche the lawe wyll nat suffre. &c.

Nota.

¶ And the cause why the landes gyuen in franke mariage, shall be put in hocchepot is, that whan a manne gyueth landes and tenementes in franke mariage with his doughter, or with his other cousyn, it is to vnderstande by the lawe, that suche gyfte made by suche wordes Franke mariage, is an auancement of his doughter or of his cousyn, and namely whan the donour and his heires shall nat haue any rent nor service of them, excepte fealtie, vnto the fourthe degree be passed. &c.

And

PARCEN. BY CVST. 59

And for suche cause the lawe is, that she shall have nothyng of the other landes and tenementes descended to the other parceners. &c. but yf she wyl put the tenementes geuen in franke mariage in hochpot, as is aforesayde, but yf she wyl nat putte the landes geuen in frank mariage in hochpot, than she shal have nothyng in the remenant, for this that it shal be vnderstande by the lawe, that she is sufficiently auauunced, to whiche auauuncement she agreed, and holdeth her content.

¶ And the same lawe is betwene the heyres  
of the donees in franke mariage, and the o-  
ther parteners, as to put in hocheipot. &c. If  
the donees in frank mariage dye before they  
auncestres, or before suche particion. &c. as to  
put in hocheipot. &c.

¶ And note well, that gyftes in franke marriage was by the comon lawe before the statute of westmynster the seconde, and alwaye after so hath ben vsed and continued. &c.

¶ Also Suche puttynge in Hocheopot . &c . is where landes oꝝ tenementes that were geuen in franke mariage dyscende fro the donours in franke mariage all onely , foꝝ if the landes dyscende to the daughters by the father the donour, oꝝ by the mother the donoure , oꝝ by the brother the donoure, oꝝ other auncesters, & nat by the donour. &c. there it is otherwise: foꝝ in suche case she to whome suche gyfte in franke mariage is made, shall haue her part, as if no suche gyfte in franke mariage hadde ben made, foꝝ this that she was not auaunced



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by them. &c. but by an other.

**A**lso if a man seised of. xxx. acres of land, and every acre of even perely value, haupnge issue two daughters, as it is aforesayde, and gyueth of this to the husband of the daughter. xv. acres in franke maryage, and dyethe seised of the other. xv. acres, in this case that other syster shal haue the. xv. acres so descended to her onely, and the housbande and the wyfe shal nat put in suche case the. xv. acres, to them gyuen in franke mariage in hochpot &c. for this that the tenementes gyuen in franke mariage, be of as great and as good perely value, as the other landes descended. &c. for if the landes gyuen in franke maryage, were of as even value as the remenant, or of more value, than in wayne and to none entente suche landes gyuen in franke mariage, shalbe put in hochpot. &c. for this that she may haue nothyng of the other landes descended. &c. for if she shoulde haue any parcell of the other landes descended, than shoulde she haue more in perely value than the syster. &c. which the lawe wyll nat. &c. And as it is sayd in the cases aforesayd of two daughters, or two parceners, in the same maner and in like case is, where there be moo sisters, after that as the case and the matter is. &c.

**A**ND it is to wyte, that landes and tenementes gyuen in franke mariage, shal nat be put in hochepot, but with the landes descended in fee symple, for of landes descended in fee tayl, particion shal be made, as if no  
 suche

## PARCEN. BY CVST. 60

suche gifte in franke marriage had be made. Cap. 24

**CALSO** no landes shall be put in hoche-  
pot with other, but landes that be gyuen in  
franke marriage all onely. For yf any wo-  
man haue anye other landes or tenementes  
by any other gyfte in the taylor, she shall ne-  
uer put suche lande so gyuen, in hoche-  
pot. &c. but she shall haue her parte of the remenaunt  
descended. &c. that is to saye, as moche as  
the other parceners shall haue of the same re-  
menaunt.

**CALSO** an other particion may be made  
betwene parceners, that varieth from all the  
particions aforesayd, as if there be thre par-  
ceners, and the yongest wold haue particion,  
and the other two wolde nat, but wyl holde  
in parcenerie that, that to theym belongethe  
withoute particion. In this case, if one part  
be allotted in seueraltie to the yongest sister,  
after that that she ought to haue, than the o-  
ther may holde the remenant in parcenerie,  
and occupie in common withoute particion,  
if they wyl, and suche particion is good y-  
noughe. And if after the elder and myddelle  
parcener wyl make particion betwene them  
of that that they holde, they may well do so,  
whan they please. But where particion shall  
be made by force of a wyrt de Participacione  
facienda. &c. there other wise it is, for there it  
behoueth, that every parcener haue his parte  
in seueraltie. &c. More shall be sayd of parce-  
ners in the chapiter of ioyntenantes, and also  
in the chapyter of tenauntes in common. &c.

¶ iiii

Joins



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¶ Joynttenantes. Cap. iii.

**I**oynttenautes be, as yf a man seyled of certayn landes or tenementes. &c. and thereof hath enfeofed two or thre or foure, or mo, to haue and to hold to them and to their heires in fee, or to haue and to holde to them for terme of their lyues, or for terme of an others lyfe, by force of whiche feoffement or lease, they be seyled, suche be ioynttenantes.

¶ Also if. ii. or. iii. dysseise an nother of any landes or tenementes to theyr owne vse, than the disseisors be iointtenantes. But if they disseise an other to the vse of one of theym, than be they noo ioynttenautes, but he to whom the vse of the disseyn is made, is sole tenaunt, and the other haue nothyng in the tenance, but be callyd Coadiutours to the dysseyn. &c.

Disseyn.

¶ And note well, that Disseyn is properly where a man entreth in anye landes or tenementes, where his entre is nat lefulle, and putteth hym oute, that hathe the franke tenement. &c.

Maxime.

¶ And it is to wyte, that the nature of iointtenancie is, that he that suryueeth, shal haue onely the hole tenancie after suche estate as he hath, if the ioynture be continued. &c. As if thre ioynttenautes be in fee symple, and the one hath issue and dieth, yet they that suryue shal haue the tenementes hole, and the issue shal haue nothyng. And if the seconde ioynttenant haue issue and die, yet the thirde  
that

that survyueth, shal haue the tenementes hole, and shal haue them in fee simple to him & to his heires for ever, but otherwise it is of parceners. For if thye parceners be, and before any partycion made, the one hath issue, and dyeth, that that to hym belongeth shal descend to his issue: And if such a parcener dye without issue, than that that to her belongeth shal descende to her heires, soo that they shal haue this by dyscent, and nat by the survyuour, as ioyntenaunces haue. &c.

Diversite.

And as the survyuour holdeth place amonge ioyntenaunces. &c. in the same maner he holdeth place amonge them that haue ioynt estate, or possession with other of chatel royall, or chatell personalle. As if a lease of landes or tenementes be made to many for terme of yeres, he that survyueth of the leasees shal haue the tenementes hoole to hym, durynge the terme, by force of the same lease.

¶ And if horse or other chatell personall, be gyuen to many, he that survyueth shal haue the horse to hym selfe.

¶ In the same maner it is of dettes and duties. &c. For if an oblygation be made to many for one dutie, he that survyueth shal haue all the dette or dutie: and so it is of all other couenantes and contractes.

¶ Also comme ioyntenaunces maye be, that may haue ioynte estate, and be ioyntenaunces for terme of theyr lyues, and yet they haue severall inheritaunces. As if landes be gyuen to two men, and to the heires of their



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two bodies engendred. In this case the donees have ioynt estate for terme of their two lyues, and yet they have severall inheritances. For if the one of the donees hath issue, and dieth, the other that surviueth shall have all by the survivor for terme of his life, and if he that surviueh hath also issue and dye, than the issue of the one shall have the halfe of the lande, and the issue of the other, shall have the other halfe of the lande, and they shall holde the lande betwene theym in commune, and be nat ioynttenantes, but tenants in commune.

**A**ND the cause, that suche donees in such case have ioynt estate for terme of they lyues is, for this that at the beginninge landes were gyuen to them two, which wordes without more sayenge make a ioynt estate to them, for terme of they lyues.

**F**or if a man wylle lette lande to an other by dede, or without dede, nat makynge mention what estate he hath, and of this maketh lyuerie of seisin. In this case the lessee shall have estate for terme of his lyfe, and so, in so moche that the landes were gyuen to theym, they have a ioynte estate for terme of they lyues, and the cause why they have severall inheritance is this, in so moche that they can nat by possibyltie have an heyre betwene them engendred, as a man and a woman may have it. than the lawe wylle that their estate and their inheritance shall be suche as reason wylle, after the fourme and effecte of the wordes

wordes of the gyfte, and that is to the heyres that the one engendzeth of his bodye, by any of his wyues, and the heires that the other engendzeth of his bodye by any of his wyues. &c. so it behoueth by necessitie of reason, that they shall haue severall inheritances. And in suche case yf the issue of one of the donees, after the deth of the donees, dye, so that he hath no issue alyue of his body engendzed, than the donour or his heire maye entre in the halfe, as in his reuercion, though the other of the donees hath issue alyue. &c. And the cause is, for so moche that the inheritances be severed. &c. the reuercion of them in the lawe is severed. &c. and the suruiuour of the issue of the other, shall holde no place to haue the hole.

¶ And so as it is sayd of males, in the same maner it is, where lande is gyuen to two females, and to the heires of their two bodies begotten.

¶ Also if landes be gyuen to two females, and to the heires of one of thepm, this is a good ioynture, and the one hath a freeholde, and the other hath fee symple: and if she that hath the fee dye, she that hath the freeholde shall haue the hool, by the suruiuour, for terme of her lyfe.

¶ In the same maner it is where tenementes be gyuen to two, and to the heires of the body of one of them engendzed, the one hath freeholde, and the other fee taylor.

¶ Also yf two ioynttenautes be leased of estate



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estate of fee simple, and the one graunteth a rent charge by his dede to an other, oute of that that to him belongeth. &c. in this case during the lyfe of the grantour, the rent charge is effectuell. But after his deceasse the rent charge is voyde, as to charge the lande, for he that hath the lande by the suruyuour shall holde all the lande dyscharged. And the cause is for this, that he that suruyueth, claymeth to haue the lande by the suruyuoure. &c. and nat by dyscēt of his felow. &c. But otherwys it is of parceners, for if there be two parceners of tenementes in fee simple, and before any particion made, the one chargeth that that to hym belongeth by his dede of a rent charge. &c. and after dyeth without issue, that to hym belongeth, descēdeth to the other parcener: In this case the other parcener shall holde the lande charged. &c. for this, that he commeth vnto that halfe by dyscente, as heye. &c.

Deuyse.

¶ Also if there be two ioynttenantes in fee simple within a borough, where the landes & tenementes be deuyfable by testamente, if the one of the sayde ioynttenantes deuyse that, that to hym belongeth by testamente. &c. and dye, this deuyse is voyde. And the cause is for this, that no deuyse maye take effecte, but after the death of the deuyfour. And for this that by his deathe all the lande incontinente commeth by the lawe to his felowe, that suruyueth by the suruyuour, which ne claymeth nor hathe nothyng in the lande by the deuyse, but

but in his owne right by the survivor, after the cours of the lawe. &c. for this cause suche devise is voyde.

Maxime.

But otherwise it is of parceners leased of tenementes devisable in suche case of devise &c. *Causa qua supra.*

**A L S O** it is commonly sayde, that every ioynt tenant is leased of the lande that he holdeth ioyntely. &c. throughte and by all. And this is as moche to saye, that he is leased by every parcell, and by all. &c. And this is true, for in every parcel and part, and by eche parcell, and by all the landes and tenementes, he is ioyntly leased with his felowes. &c.

**A L S O** if two ioynt tenants be leased of certayne landes in fee simple, and the one letteth that that to him belongeth to a stranger for terme of .xl. yere, and dieth, before the terme begin, or within the terme, in this case after his deceasse the lessee may enter and occupy the halfe to hym letten, durynge the terme. &c. though the lessee neuer had possession of it in the lyfe of the lessoure by force of the same lease. &c.

**A N D** the diversitie betwene the cause of the graunt of the rent charge aforesayde, and this case is this. For in the graunte of a rent charge by a ioynttenant, the tenants abyde alwaye, as they were afoze, withoute that, that any hath any righte to have any parcell of the tenementes but them selfe, and the same tenementes abyde in such plyte as they were before the charge. &c.

But



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Diversite.

But where a lease is made by a ioyntenaunt to an other for terme of yeres. &c. incontinent by force of the lease the lessee hath ryghte in the same lande, that is to say, of all that that to his lessour belonged, and to haue that by force of the same lease, during his terme. &c. and this is the dyuersite. &c.

**A L S O** ioyntenantes if they wyl, may make partition betwene them, and the partition is good ynough, but they shall nat be compellyd by the lawe to doo it, but if they wylle make partition of theyr propre wylle and agreement, the partition shall stande in his strength. D. 3. C. 4.

**A L S O** IF a ioynte estate be made of lande to the husbande and the wyfe, and to the thirde persone, in this case the housband and the wyfe haue nat in the lawe in theyr ryght, but the halfe. &c. And the thyrde person shall haue as moche as the husbande and the wyfe hath, that is to saye, the other halfe &c. And the cause is, for that the housband and the wyfe be but one persone in the lawe, and be in lyke case as yf estate be made to two ioynttenautes, where the one hath by force of ioynture the one halfe, and the other the other halfe.

**I N** the same maner is, where estate is made to the husbande and the wyfe, and to other two men: In suche case the husbande and the wyfe haue nat but the thirde part, and the other two men the other two partes. &c. causa qua supra. More shall be sayde of the matter

willam marston is my man  
and with my hande I make this  
forane

# TEN. IN COMMON. 64

matter, touchynge ioynttenancie in the cha- Cap. 4.  
piter of tenantes in common, tenant per cle-  
gk, and tenant by estatute marchant.

## Tenantes in common. Capitu. liii.

**T**enantes in comon be they, that haue  
landes or tenementes in fee simple, fee  
taile, or for terme of lyfe. &c. and those  
they be, whiche haue suche landes and tene-  
mentes by seuerall titles, and nat by ioynte  
title, and no man knoweth that that is seuer-  
all to him, but they ought by the lawe to oc-  
cupie suche landes or tenementes in common  
and vndeuided, to take the profites in comon.  
And bycause that they come to suche landes  
and tenementes by seuerall titles, and nat by  
one selfe ioynte title, they occupacyon and  
possession shall be by the lawe amonge them  
in comon, and be callyd tenantes in common.

**A**s if a man enfeoffe two ioynttenantes in  
fee, and the one of theym aliyeneth that that  
to hym belongeth to an other in fee, now the  
other ioynttenant and the aliyenee be tenan-  
tes in common, for this that they be seased in  
suche tenementes by seuerall titles, for the a-  
liyenee cometh in the halfe by the feoffement  
of the ioynttenant, and the other ioynttenant  
hath the other halfe by force of the first feof-  
ment made to hym and to his firste felowe,  
and so they be in by seuerall titles, and by se-  
uerall feoffementes, &c.

And



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Fe Simple.

**AND** it is to wytte, that whanne it is sayde in any boke, that a man is leased in fee without more sayenge, it shall be vnderstande fee symple, for hit shall nat be vnderstande by such wordes in fee, that a man is leased in fee taylor, except that there be put therto such addicion, that is to say, fee taylor.

**ALSO** of thre ioynttenantes be, and the one of them aleneth that that vnto hym belongeth, to an other man in fee. In this case the alenee is tenant in common with the other two ioynttenantes. But yet the other two ioynttenantes be leased of the two partes ioyntly, and of these two partes the cury- wour betwene them holdeth place. *sc.*

**Also** if there be two ioynttenantes in fee, and the one gyueth that that vnto him belongeth to an other in the taylor, the donee and the other ioynttenante be tenants in common. *sc.*

**But** if the landes be gyuen to two men, and to the heyres of theyr two bodys engendred, the donees haue ioynte estate for terme of theyr lyues, and if eche of theym haue issue and dye, theyr yssues shall holde in common. *sc.*

**But** if landes be gyuen to two abbottes, as to the abbotte of westmyster, and to the abbotte of saynte Albons, to haue and to hold to them and to theyr successours: in this case they haue incontinent at the begynnyng estate in common, and nat ioynte estate. And the cause is for this, that euery abbotte or other

other souerayne of an house of religion, be-  
fore that he be made abbot or souerayn, was  
but a deade man in the lawe. And whan he is  
made abbotte, he is a man personable in the  
lawe, alonely to purchase and to haue landes  
and tenementes, and other thynges, to the  
vse of his house, and nat to his own propie  
vse, as other secular men may. And for this,  
in the begynnynge of theyr purchase, they be  
tenantes in common. And if the one of them  
dye, the abbot that suruiueth shall nat haue  
all by the suruyuour, but the successour of  
the abbotte that dyeth shall holde the halfe in  
common with the abbotte that suruyueth. &c.

¶ Also if landes be gyuen to an abbotte and  
to a secular man, to haue & to holde to them,  
that is to saye, to the abbotte and his succes-  
sours, and to the secular man to hym and to  
his heires, they haue estate in common *Causa*  
*sa qua supra.*

¶ ALSO yf landes be gyuen to two men  
to haue and to holde, that is to wytte, the  
one halfe to the oone and to his heires, and  
the other halfe to the other, and to his heires,  
they be tenantes in common, &c.

¶ Also yf a man leased of certayne landes  
enfeoffeth an other in the halfe of the same  
lande, without any speche of assignement or  
lymyttacion of the same halfe in seueraltie,  
at the tyme of the feoffement, than the feoffee  
and the feoffour shall holde theyr partes of  
the land in common. And in the same maner  
as it is aforesayde of tenauntes in common



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of landes or tenementes in fee Symple or fee  
taylor, in the same maner may it be said of te-  
nantes for terme of lyfe.

¶ As if two ioyntenantes be in fee, and the  
one letteth to a man that, that vnto hym be-  
longeth for terme of lyfe, and the other ioynte-  
tenant letteth that that to hym belongeth to  
an other for terme of lyfe, these two lessees be  
tenantes in comon for terme of their lyues .xc.

¶ Also if a man lette landes to two men for  
terme of theyr lyues, and the one graunteth  
all his estate of that that vnto hym belongeth  
to an other .xc. than that other tenaunte for  
terme of lyfe, and he to whom the graunte is  
made, be tenantes in comon, during the time  
that bothe lessees be alyue.

¶ And it is to be remembred, that in all other  
suche cases, though that they be nat here ex-  
pressely named or specified, if they be in lyke  
reason, they be in lyke lawe.

¶ Also if there be two ioynttenauntes in fee,  
and the one letteth that that vnto hym belon-  
geth to an other for terme of his lyfe, the te-  
nant for terme of lyfe, durynge his lyfe, and  
the other ioynttenaunte that dyd nat lette, be  
tenantes in common.

¶ And vpon this case a question maye ryse,  
as thus, Putte the case that the lessour hath  
issue and dyeth, luyng that other ioynttenant  
his felowe, and luyng the tenant for terme  
of lyfe, the question may be suche, if the re-  
uercion of the halfe .xc. that the lessour hath,  
shall descende to the issue of the lessour, or  
that

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To be read in the  
margin of the  
book  
William  
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that the other ioyntenant shall haue it by the **Cap. 4.**  
suruiuour.

**A**nd some haue sayde in this case, that the other ioyntenant shall haue the reuercion by the suruiuour, and their reason is such, when the ioyntenauntes were ioyntly seased in fee simple. &c. though that one of them made estate of that that vnto hym belongethe for terme of lyfe, and though that he hath seuered franke tenement of that that to hym belongeth by the lease, yet he hath nat seuered the fee simple: But the fee simple abydethe to hym ioyntly, as it was before. And so it seemeth vnto them, that the other ioynttenant that suruiueth, shall haue the reuercion by the suruiuour. &c.

**A**nd other haue sayde the contrarie, and this is theyr reason, that is to say, when one of the ioyntenauntes letteth that that to hym belongeth to an nother for terme of his lyfe, that by suche lease the franke tenement is seuered from the ioynture. And by the same reason the reuercion that is dependant vnto the same franke tenement, is seuered from the ioynture.

**A**lso if the lessour hadde reserved to hym a yerely rente vpon the lease, the lessour onely shall haue the rent. &c. The whiche is a profe, that the reuercion is onely in hym, and that the other hath nothyng in the reuercion.

**A**L S O yf the tenaunt for terme of lyfe were impleded. &c. and made default after defaulte, than the lessour shall be onely of this



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receyued to defend his right, and his fellowe, in this case in noo maner shall be receyued, whycher prouethe, that the reuercion of the halfe is onely in the lessour. And so by consequens, if the lessour dye, lyving the lessee for terme of lyfe, the reuercion shall discende to the heire of the lessour. &c. and nat come to the other ioyntenant by the suruiuor, Ideo quere.

Inquere.

But in this case if the ioyntenant that hath the franke tenement haue issue and die, liuing the lessour and the lessee, than it semeth that the issue shall haue the halfe in his demesne, as of fee, by discent, for this that the franke tenement may nat by nature of the ioynture be annexed to a reuercion. &c. And it is certayne, that he that letted, was seased of the halfe in his demesne as of fee, and none shall haue any ioynture in his franke tenement, Ergo this shall dyscende to his yssues. Sed quere.

Inquere.

¶ But if it be thus that the law in this case is suche, that if the lessour dye, lyvinge the lessee, and lyvinge the other ioyntenant that hath the franke tenement of the other halfe, that the reuercion shall descende to the yssue of the lessour, than is the ioynture and the title that any of them maye haue by the suruiuour, and ryght of the ioynture adnullyd and all vtterly defeted for euer.

¶ In the same maner it is, if the ioyntenant that hath the franke tenement dye, lyvinge the lessour and the lessee, if the lawe be suche, that his franke tenement and fee that he hath in

in the halfe, shall descende to his yssue, than Cap. 4.  
the ioynture shall be defeted for ever. &c.

**A L S O** if thre ioyntenantes be, and the one releaseth by his dede to one of his felowes, al the ryght that he hath in the lande, than hath he, to whome the release is made, the thyrde parte of the landes by force of the release, and he and his felowe shall holde the other two partes ioyntly. And as to the thirde parte that he hath by force of the release, he holdeth that thirde parte with him selfe and his felowe in common.

**A N D** it is to wytte, that sommetyme a dede of release shall take effecte, and shall be enbren to put the estate of hym that made the release to hym, to whom the release is made, as in the case aforesayde. **Release.**

**A N D** also if a ioynte estate be made to the husbnde and his wyfe, and to a thyrde person, and the thirde persone releaseth his right that he hath. &c. to the housbnde, than hath the housbnde the halfe that the thyrde person hadde, and the wyfe of this hath no thyng. And if in suche case the thyrde release. &c. to the wyfe, nat nampnge the housbnde in the release, than hath the wyfe the halfe that the thyrde persone hadde: and the husbnde hath nothyng of this, but in righte of his wyfe, for this that in suche case the release shall enure to putte the estate to hym, to whom the release is made of all that that belongeth to hym that made the release. &c.

**A N D** in some case a release shall enure to



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put all the righte that he hath, that made the release, to hym to whom the release is made. ¶ As if a man leased of certayne landes and tenementes is disseysed by two disseisors, if the dysseisee by his dede release all his ryghte &c. to one of the disseisors, than he to whom the release is made, shall haue and holde all the tenementes to hym onely, and putte oute his felow of euery occupation of it. And the cause is for this, that the.ii. disseisors were seysed in the tenementes by wronge by theym done agaynste the lawe. And whanne one of them hath the release of hym that had ryghte to entre.&c. this ryghte in suche case restethe in hym, to whome the release is made, and is in suche plyght as if he that had the righte hadde entred and enfeofed hym.&c. And the cause is for this, that he that hadde the estate by wronge, that is to say by disseisyn.&c. he hath now by the release a rightfull estate..

p. 5. c. 4

¶ A L S O in some case a release shall enure by way of extinguyshment, and in such case suche release shall helpe the ioyntenaunte, to whom the release was nat made, as well as hym, to whom the release is made.

¶ As if a man be dysseised, and the dysseysour maketh a feoffement to two men in fee, if the disseisee release to one of the feoffees in fee by his dede, than suche relese shall enure to both the feoffees, for this that the feoffees haue estate by the lawe, that is to say, by feoffement, & nat by wrong done to any other.&c.

¶ And in the same maner it is, if the dysseysour

four

best fine

best knowne

best knowne

four make a lease to a man for terme of lyfe, the remaynder over to an other in fee, yf the disseisee release to the tenant for terme of lyfe al his right. &c. This release enureth as well to hym in the remainder as to the ternaunt for terme of lyfe, and shall ayde and maynteyne the right of hym in the remaynder, as well as the right of the tenant for terme of lyfe. &c.

And the cause is for this that the ternaunt for terme of lyfe commeth to his estate by the cours of the lawe. And for this the release shall enure and take effecte by way of extinguishment of the ryghte of hym that hath released. &c. And by this release the ternaunt for terme of lyfe hath no greater estate than he had before the release made vnto him, and the righte of hym that released is all utterly extincte. And in so much that suche release can nat enlarge the estate of the ternaunte for terme of lyfe, it is reson that the release shall enure to hym in the remaynder. &c. More shall be said of releases in the chapter of releases.

Also if there be two parceners, and the one alieneth that vnto hym belongeth to another, than the other parcener and the alienee be ternaunts in common.

Also tenants in common may be by title of prescription, if the one and his auncesters, or they, whose estate he hath in the half, have holden in common, the same halfe with the other ternaunt, that hath the other halfe, and with his auncesters, or them whose estate he hath, as vndeuyded, fro tyme wherof noo



memorie runneth. &c. And dyuers other maners may make and cause men to be tenants in common, that be nat here exprested.

**A L S O** in some case tenants in comon ought to haue of their possession seuerall actions, and in some case they shall ioyne in one action. For if there be two tenants in common, and they be dysseised, they oughte to haue agaynst the dysseisor two assises and nat one assise, for euery of theym oughte to haue an assise of his halfe. &c. And the cause is for this, the tenants in common were seised by seueral titles, but otherwise it is of ioyntenantes. For if there be. xx. ioyntenantes, and they be disseased, they shall haue in all theyr names but one assise, bycause that they had but one ioynt tyle.

**A l s o** if there be three ioyntenauntes, and oone releaseth to oone of his felowes all the ryghte that he hath, and after the other two be dysseised of the hole. &c. In this case the other two shall haue seuerall assyses in this forme, that is to saie, they shall haue in both theyr names one assise of the two partes. &c. for this that they held the two partes ioyntly at the tyme of the disseisyn. And as to the third part he to whom the release was made oughte to haue thereof an assise in his owne name, for this that as to the thyrde parte he is tenant in common. &c. for this that he came to that thyrde parte by force of the release, and nat onely by force of the ioynture. Also as to seue actions that toucheth the royaltie there

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there is diuersite betwene parceners that be by dyuers dyscentes, & tenants in comon. Cap. 41

For if a man leased of certayne landes in fee haue issue two doughters and dye, and they enter. &c. and eche of theym hath issue a sonne, and dye withoute particion made betwene them, by whiche the one halfe descendeth to the sonne of the oone parcener, and the other halfe descendeth to the sonne of the other parcener, and they entre and occupie in common, and be disseased, in this case they shall haue in theyr two names, one assise, and nat. ii. assises. And the cause is, that though they come in by dyuers dyscentes. &c. yet they be parceners, and a writte De participatione faciendi, lyeth betwene theym, and they be nat parceners hauinge regarde or respecte onely to the seilyn and possession fro theyr mothers, but they be parceners hauing more respecte to the estate that descended frome their grandfather to their mothers, for they maye nat be parceners where theyr mothers were nat parceners before. &c.

Parceners by dyuers dyscentes disseased shall haue in theer .ii. names one assise, and nat. ii. assises.

And so to such respect and consideration, that is to witte, as to the fyrste discent, that was to their moders, they haue a title in parceners, the whiche maketh theym parceners. And also they be put as one heyre to their comon auncester, that is to say to their grandfather, from whome the lande descended to their mothers. And for these causes before particion betwene them. &c. they shulde haue one assise, though they come in by severall



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dyſcentes. &c.

**A L S O** if there be two tenants in common of certayne landes in fee, and they gyve the ſame lande to an nother man in the taylor, or lette it to an other manne for terme of lyfe, yeldynge an annuities, or certayne rente, and a pounce of pepper, or an hauke, or an horſe, and they ben ſeased of the ſeruitces, and after all the rente is behynde, and they diſtreyn for it, and the tenant maketh theym reſcous, In that caſe as to the rent and the pounce of pepper, they ſhall haue two aſſiſes, and as to the hauke and the horſe but oone aſſiſe, and the cauſe why they haue two aſſiſes, as to the rente and pounce of pepper is this, in ſo much that they were tenants in common by ſeueralle tytles, and whanne they made a gyfte in the taylor, or leaſe for terme of lyfe &c. ſauynge to theym the reuerſyon, and yeldynge to theym certayne rente. &c. Suche reſeruation is incidente to theyr reuerſyon.

**A N D** for this that theyr reuerſyon is in common, and by ſeueralle titles, as theyr poſſeſſyon was before theyr rente, and other thynges, that maye bee ſeuered, and were to theym reſerued vpon the gyfte, or vpon the leaſe, whyche be incidente by the lawe to the reuerſyon, Suche thynges ſo reſerued was of the nature of the reuerſyon, whyche reuerſion is to theym in common by ſeueralle titles. And hit behouethe, that the rente of the pounce of pepper, whyche maye be ſeuered, be to them in common, by ſeueralle titles

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titles. And of this they shall haue two assises, and euerye of theym in his assise, shall make his playnt of the halfe of the rente, and of the halfe of the pounce of pepper. &c. But of the hauke and the horse, whyche can nat be seuered, theye shall haue but one assise, for a man may nat make a playnt in assise of the halfe of an hauke, or of the halfe of an horse &c. In the same maner it is of other rentes and seruices, that tenantes in common haue in gosse by dyuers titles. Cap. 41

Also as to actions personals, tenantes in common ought to haue suche actions personals ioyntly in all their names, that is to say of trespass, or of offences that touche theyr tenementes in common. As of breakynge of their howses, breakynge of theyr closures and pastures, wastynge and defowlynge of theyr grasse, cuttynge of theyr wodde, and to fysh in their poudes, and suche other. In this case tenantes in common shall haue one action ioyntly, and recouer ioyntly damages, bycause that the action is in the personaltie, and nat in the realtie.

Also yf two tenauntes in common make a lease of theyr tenementes to an nother for terme of yeres, yeldynge vnto theym perely a certayne rent, durynge the terme, yf the rent be behynde. &c. the tenauntes in common shall haue one action of dette agaynst the lessee, and nat dyuers actions, for that the action is in the personaltie. But in anouyry for the sayd rent, they oughte to seuer, for that

Tenantes in common shall haue an action of dette.

Anowre.



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Particio  
ex cōsensu

Tenantes  
in commō  
of cattell.

that is in the realtie, as the assise is aboue.

¶ Also tenants in common may make partition betwene theym if they wyll, though they shall nat be compelled by the lawe. But if they make partition betwene them by theyr agreement and assent, such partition is good inoughe, as it is adiudged in the booke of Assise. p. 3. c. 4.

¶ Also as there be tenautes in common of landes or tenementes. &c. as is aforesayd. In the same maner there be possessions and properties of chattell real and chattell personall. As yf a lease be made of certayne landes to two men for terme of. xx. yeres, and whanne they be thereof possessed, the oone of the lessees granteth that that vnto hym belongeth, durynge the terme to an nother, than he to whom the grant is made, and the other shall holde and occupie in common.

¶ Also yf two ioyntenautes haue the ward of the bodye, and of the landes of the chylde within age, and that one of them graunteth to an other that that vnto hym belongeth of the same warde, than the grantee, and the other that graunteth nat, shall haue and holde it in common. &c.

¶ In the same maner it is of chattelles personals, as yf. ii. haue a ioynt estate by gift, or by bypnyge of an horse or an oxe. &c. and the one graunteth that that to hym belongeth to an other. &c. Than the grantee and he that granted nat, shall haue & possesse suche chatels personals in comon. &c. And in such cases where  
diuers

12:11:11  
12:11:11

diuers persones haue chatels reals oꝝ perso-  
nals in common, and by diuers titles, if the  
one of them dye, the other that suryuethe,  
shall nat haue that by the suryuoꝝre: But  
the executours of hym that dyeth, shall holde  
and occupie that with hym that suryuethe,  
as their testatour dyd oꝝ ought in his lyfe. &c.  
foꝝ this that theyꝝ tytles and ryghte in this  
case were seuerall.

¶ Also in this case afoꝝsaid, if. ii. haue estate  
in cōmon foꝝ terme of yeres, and the one oc-  
cupie all, and put the other out of his posses-  
sion and occupation: than he that is put out  
of occupacyon, shall haue agaynst that oꝝ  
ther a writte de eiectione firme, of the halfe  
agaynst the other. ¶ In the same maner it  
is, where two holde the warde of landes oꝝ  
tenementes, durynge the nonage of a chyld,  
yf one put out the other of his possession, he  
that is out shall haue a writte de eiectione  
de garde, of the half, foꝝ this that those thin-  
ges be chatels reals, and maye be appoynted  
and seuered. &c. But noo suche action of  
trespas, that is to say, Quare clausum suum  
fregit, & herbā suā cōculcauit & consumpsit  
&c. And suche lyke actions the one maye nat  
haue agaynst the other, foꝝ this that eche of  
them maye entre and occupie in common. &c.  
throughe and by all the landes and tenemen-  
tes, whych they holde in common. But yf  
two be possessed of chatelles parsonelles in  
common by dyuers tytles, as of an horse, oꝝ  
an oxe, oꝝ a cowe, if the one take it all to hym  
selfe



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Selfe oute of the possession of the other, the other hath none other remedye, but to take this of him, that hath done to him the wrong, for to occupie in common, whan he may see his tyme.

**I**n the same maner it is of chatell realle that may nat be scuered, as in case aforesaid, that two be possessyoners of a warde of the body of a chylde within age, if one take the chylde out of the possession of the other, the other hath no remedye by any action by the lawe, but to take the chylde out of the others possessyon whan he seeth his tyme. &c.

The forme  
of pledinge

**A**lso whan a man in pledynge wyll shewe a dede of feoffemente made vnto hym, or a gyfte in the taylor, or a lease for terme of life, of any landes or tenementes, there he shal say, by force of whiche feoffemente gyfte or lease he was seased. &c. But where a man wyll pleade a lease or a graunt made vnto hym of chatell realle, or personall, there he shal say, perforce of whiche he was possessed. More shal be sayde of tenantes in common in the chapters of releases, confirmacions, and tenantes per Elegit.

Diuersitie

**E**states vpon condicion. Cap. v.

**E**states that men haue in landes or tenementes be in two maners. That is to saye, they haue estare vppon condycyon in dede, or vppon condicion in lawe. Vppon condicion in dede, is where a manne by dede

Indented enfeofeth an other in fee, reseruing to hym and to his heires perelye a certayne rent, payable at one feast or at dyuers feastes by yere vpon condicion, that if the rente be behinde. &c. that it shalbe lefull to the feoffour and to his heires to entre into the landes or tenementes. &c. Or if the lande be alpyened to an other in fee, to yeld vnto hym certayne rente. &c. And if it happe that the rente be behynde by a weke after any daye of paymente of it, or by a monethe, or by the halfe yere, after any daye of payement, that than it shall be lefull to the feoffoure, and to his heires to entre. &c. In this case yf the rente be nat payde at suche a tyme, or before suche a tyme limitted and specified within the condicion comprised in the endenture, than maye the feoffour or his heires entre in to suche landes or tenementes, and them in his first estate to haue and to holde, and of this to put the feoffee cleane out, and it is callid estate vpon condicion, for this that the estate of the feoffee is defesible, if the condicion be nat persfourmed.

In the same maner it is, yf landes be gyuen to a man in the taile, or let for terme of life, or for terme of yeres, vpon suche condicion. &c. But where a feoffement is made of certayne landes, reseruyng certayne rente vpon suche condicion, that yf the rente be behynde, that it shall be lefull to the feoffour and his heires to entre in the land tyll he be satisfied or payde of the rent behynde. &c. In this case  
if



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if the rent be behynde, and the feoffour and his heires enter, the feoffee is nat excluded cleane out. But the feoffour shall haue and holde the lande, and take the profyttes tyll that he be satisfied of the rent behynde. And whan he is satisfied, than the feoffee maye reentre in the same lande and holde it as he dyd before, for in such case the feoffour shall haue it but in maner as for a distresse in the meane tyme tyl he be satisfied of the rent. &c. though he take the profyttes in the meane tyme to his owne vse.

Uppon a condicion.

**A L S O** dyuers wordes amonge other there be, that by vertu of theym selfe make estate vpon condicion. One is this worde vpon condicion, as if A. enfeoffeth B. of certayne lande to haue and to holde to the same B. and his heires vpon condicion that the same B. and his heires shall pay, or do to be payde to the foresayde A. and to his heires yerely suche a rent. &c. In this case withoute any more sayeng the feoffee hath estate vpon condicion. &c.

Prouiſo.

**A L S O** I F the condicion were suche, prouyded alway that the foresayde B. paye or do to be payde to the foresayde A. suche a rent. Or if they were thus, so that the foresayde B. pay, or do to be payde to the foresayde A. suche rent. In these cases, without any more sayeng the feoffee hath nat estate, but vpon condycion, so that yf he performe nat the condicion, the feoffour and his heires may entre. &c.

Also

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¶ Also other wordes there be in a dede, that causeth the ternautes to bee condicionels, as vpon suche a feoffement a rent is reserved to the feoffour. &c. and after it is put in the dede, that yf it chaunce the foresayd rent to bee beynde in parte or in all. &c. that than it shall be laful to the feoffour and to his heyres to enter. And this is a dede vpon condicion.

But there is diuersitie betwene these wordes, If it chaunce. &c. and the wordes next aforesayde. For this worde, If it chaunce, &c. is noughte worde to such condicion, but if it haue these wordes folowynge, that is to saye, that it shall be lesful to the feoffour and to his heyres to entre. &c.

¶ But in these cases aforesaid, it nedeth nat by the lawe, to putte suche clause, that is to saye, that the feoffour and his heyres may enter. &c. for this, that they may so do by force of the wordes aforesayde, because they conserue in theym selfe in the lawe a condicion, that is to saye, that the feoffour and his heyres may enter. Yet it is commonly in al suche cases aforesayde, to putte suche clauses in the dedes, that is to saye, yf the rente be behinde &c. that it shall bee lesfull to the same feoffour and his heyres to enter. &c. And this is welle done to the entente for to declare and expresse to the lape menne, that bee nat learned in the lawe, the maner and the condicion of the feoffement. &c.

¶ As if a man leased of lande, as of franke feoffement, leat the same lande to an other by

de

dede

Condictio  
implicita.



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debe indented for terme of .xx. yerres, yeldyng  
vnto hym certayner ente, it is vled to put in  
the dede, that if the rente be behynde at the  
day of payment by a weeke or a moneth. .ic.  
that than it shall be lafull to the lessour, to  
distraine. .ic. & yet the lessour make distraine of  
comon right for the rent behynde. .ic. though  
suche wordes neuer were put in the dede. .ic.

¶ Also if any feoffement be made to a man  
vpon suche condition, that if the feoffour pay  
to the feoffee at a certayne day. .ic. .xx. li. of mo-  
ney, that than the feoffour make reenter. .ic.  
In this case the feoffee is called ternaunt in  
morgage, that is as moche to say in frenche,  
as mortegage, and in latin mortuum vadit,  
and in englyshe a deade pledge.

**Pignus  
mortuum.**

¶ And it semeth, that the cause why it is cal-  
led morgage is, for that that it standethe in  
doubte, if the feoffor wyll pay at the daye li-  
mitted suche a somme or nat, and if he paye  
nat, thā the land that is put in pledge vpon  
condicion for the payment of the money, is  
gone from hym for euer. And so deade to hym  
vpon condicion, and if he paye the money,  
than is the pledge deade as to the ternaunt. .ic.

¶ Also as a man may make a feoffement in  
fee in morgage, so maye a man make a gyfte  
of the taylor in morgage, and a lease for terme  
of lyfe, or for terme of yerres in morgage.

And all suche tenants be called ternautes in  
Morgage, after the state that they haue in  
the landes. .ic.

¶ Also if a feoffement be made in morgage,  
vpon

Upon condicion, that the feoffour shall pay  
suche a somme at suche a daye. &c. as it is be-  
swene them by their dede indented, accorded  
and lympted, though the feoffour dye before  
the day of payment. &c. yet if the heyre of the  
feoffor pay the same somme of money at the  
day to the feoffee, or proffer hym the money,  
and the feoffee refuseth to receyue it, tha may  
the heyre enter into the landes. And yet the  
condicion is, if the feoffour pay such a somme  
at suche a day. &c. and nat makynge mencion  
in the condicion of any paymente to be made  
by his heire. But for this, that the heire hath  
interest of right in the condicion. &c. and the  
entente was but that the moneye shoulde be  
payde at the daye set. &c. and the feoffee hath  
no more damage if he be payde by the heire,  
than though he were payde by the father  
&c. And for this cause yf the heyre paye the  
money, or tendreth the money at the daye set  
&c. and the other refuseth it, he may well en-  
ter. But yf a straunger of his owne heade,  
that hath noo intereste. &c. wolde tende and  
paye the moneye to the feoffee, at the daye  
sette, thanne the feoffee is nat bounde to re-  
ceyue it. &c.

¶ And it is to be had in mynde, that in such  
case, where suche laifull tender of the money  
is made, and the feoffee refuseth to receiue it,  
wherfore the feoffour or his heires doo enter  
&c. than the feoffee hath noo remedye to haue  
the moneye by the common lawe, for this  
that it shall be arested his owne folp, that he

But

refused



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refused the money whan lausfull proffer was made of it vnto hym. &c.

**A L S O** if a feoffement be made in suche condicion, that if the feoffee paye to the feoffour at suche a daye betwene them lymyted xx. li. that than the feoffee shall haue the lande so hym and to his heires, and yf he faylle to paye the moneye at the daye asselled. &c. that than it shall be lesfull to the feoffour, or to his heires to enter. &c. and after befoze the daye sette, the feoffee selleth the lande to an other, and therof maketh a feoffement to hym, in this case if the seconde feoffee wyll tende the somme of money at the day sette to the feoffour, and the feffor refuseth it. &c. than hath the seconde feoffee estate in the lande clerelye without condicion. And the cause is for that the seconde feoffee had interest in the condycion for saluation of his tenauncie. And in this case it semeth, that if the first feffer after suche sale of the lande wyll tende the moneye at the day sette for the secound feoffee to the feoffour, that shall be good ynoughe for the saluation of the estate of the seconde feoffee, for this that the fyrste feoffee was priuie to the condycion, and soo the tender of any of them both is good inough. &c.

In what  
tyme ten-  
der shalbe.

**A L S O** if the feoffement be made vpon condicion, that if the feoffour pay a certayne somme of money to the feoffee, that than it shall be lesfull to the feoffour and to his heires to entre. &c. In this case yf the feoffoure dye befoze the day of payment, and the heire wylls

will tender to the feoffee the moneye, suche tender is voyd, for this that the tyme within whiche the tender ought to be made, is past. For whan the condicion is, that yf the feoffour pay the money to the feoffee, this is as moche to say, that if the feoffour during his lyfe, pay the money to the feoffee. &c. And whā the feoffour dyeth, than the tyme of the tender is past. But otherwise it is, where a day of payment is lympted to the feoffour, and he dyeth before the daye, than maye the heyre tender the money, as it is aforesayd, for this that the tyme of the tender was nat paste by the dethe of the feoffour.

**A L S O** it semeth in such case, where the feoffour dyeth before the day of paymente, if the executours of the feoffour tender the money to the feoffee at the day of paymente, the tender is good enough. And if the feoffee refuse this, the heyre of the feoffour may enter &c. And the cause is for this, that the executours represente the personne of theyr testator &c.

**A N D** note well, that in all such cases of condicion of paymente of certayne summe in grosse, touchynge landes or tenementes, yf laifull tender be ones refused, he that ought to pay the money, is thereof alloyed & clerely discharged for ever after.

**A l s o** yf the feoffee in mortgage before the day of payment that shalbe made unto hym, make his executours and dye, and his heire entereth into the land, as he ought: It semeth



In this case, that the feoffour ought to paye the money at the day sette to the executours, and nat to the heyre of the feoffee, for this that the money at the begynnynge belonged to the feoffee in maner as a duetie. And shall be vnderstande that the estate was made, by cause of borrowynge of the money of the feoffee, or by cause of an nother duetie. And for this the payment shall nat be made vnto the heyre of the feoffee as it seemeth. But the wordes of the condicion maye be suche, that the payment shall be made vnto the heyre, as yf the condicion were, that the feoffour paye to the feoffee or to his heires suche a somme of money at suche a day. &c. There after the dethe of the feoffee, if he dye before the daye paynted, payment oughte to be made to the heire at the day sette.

where ten-  
der shall be  
made.

Also in suche case of a feoffement in mortgage, a question hath ben demanded, in what place the feoffour is bound to tender the money to the feoffee at the day set. &c. And some haue sayde, that vpon the lande so holden in mortgage, for this that the condicion is dependant vpon the land, and they haue sayd, that yf the feoffour be redy vpon the lande to pay the money to the feoffee at the day sette, and the feoffee be nat at that tyme there, that then the feoffour is excluded and discharged of payment of the sayde money, for this that no defaulte was in hym. But it seemeth to some men, that the law is contrary, and that defaulte is in hym. For he is bounde to seeke the

the feoffee, yf he be than at any tyme in any Cap. 7.  
maner of place within the realme of Eng-  
lande. As yf a man be bounde in an obligas-  
tion of. xx. pounde vppon condicion indosed  
vpon the obligation, that if he paie to hym  
to whome the obligation is made, at suche a  
day. x. ii. that thā the obligation of. xx. ii. shal  
lese his force, and shall be holden for naught,  
in this case it behouethe hym that made the  
obligation to seke hym, to whome the obli-  
gation is made, if he be within Englande,  
and at the day set, to tender to hym the sayde  
x. ii. &c. And otherwise he forsaitheth the some  
of. xx. ii. cōprised within the obligation, and  
so it seemeth in the other case. &c.

**A**N D though that some haue saide, that  
the condicion is dependant vppon the lande,  
yet this is nat proued, that the fesaunce of  
the condicion to be perfourmed, oughte to  
be made vppon the lande. &c. No more than  
yf the condycion were, that the feoffoure  
shulde doo at suche a daye. &c. an especyall  
corpozall seruisce to the feoffee, nat namyng  
the place, where the corpozall seruises shulde  
be dooen. In this case the feoffoure oughte  
to doo suche corpozalle seruisce at the daye  
lymytte to the feoffee, in what so euer place  
in Englande that the feoffee be, yf he wylle  
haue aduauntage of the condycion. &c. And  
soo it seemeth in that other case. And it see-  
meth to theiſe, that it shall be more proper-  
ly sayd, that the estate of the lande is depen-  
dant vppon the condycion. &c. whiche is as



Cap. V. 1. moche to say, that the condicion is dependant  
vppon the lande &c. but enquire. &c.

¶ But if a feoffment in fee be made, reser-  
uynge to the feoffour an annuel rent, and for  
defaut of payment a reentre. &c. in this case  
it nedeth nat to the tenant to tender the rente  
whan it is behynde, but onely vpon the land,  
for this that this is a rent goinge oute of the  
lande, whiche is rente secke. For if the feoffor  
be ones leased of this rente, and after he co-  
meth vpon the lande. &c. and the rente is de-  
nyed him. &c. he may haue assise of nouell dis-  
cussyn, for thoughe he maye enter bycause of  
the condicion broken, yet he may chose, that  
is to saye, to entre or to haue an assise. And  
so is there dyuersitie, as to the tender of the  
rent, that is goinge out of the lande, and of  
the tender of an other somme in grosse, whi-  
che is nat goinge out of any lande. And ther-  
fore it shall be sure and a good thynge for the  
that wyl make suche feoffment in mortgage,  
to put and set a speciall place, where the mo-  
ney shall be payd. And the more speciall that  
it is put, the better it is for the feoffour.

¶ As if A. enfeoffe B. to haue to hym and  
to his heires vppon suche condicion, that yf  
A. pay to B. in the feaste of saynte Myghell  
thareaungell next commynge in the cathedrall  
churche of saynte Paule of London, within  
foure houres next befoze the houre of noone  
of the same feaste, at the Roode losse of the  
northe dooze within the same Churche, or at  
the tombe of saynte Erkenwalde, or at suche  
a cha

10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 841. 842. 843. 844. 845. 846. 847. 848. 849. 850. 851. 852. 853. 854. 855. 856. 857. 858. 859. 860. 861. 862. 863. 864. 865. 866. 867. 868. 869. 870. 871. 872. 873. 874. 875. 876. 877. 878. 879. 880. 881. 882. 883. 884. 885. 886. 887. 888. 889. 890. 891. 892. 893. 894. 895. 896. 897. 898. 899. 900. 901. 902. 903. 904. 905. 906. 907. 908. 909. 910. 911. 912. 913. 914. 915. 916. 917. 918. 919. 920. 921. 922. 923. 924. 925. 926. 927. 928. 929. 930. 931. 932. 933. 934. 935. 936. 937. 938. 939. 940. 941. 942. 943. 944. 945. 946. 947. 948. 949. 950. 951. 952. 953. 954. 955. 956. 957. 958. 959. 960. 961. 962. 963. 964. 965. 966. 967. 968. 969. 970. 971. 972. 973. 974. 975. 976. 977. 978. 979. 980. 981. 982. 983. 984. 985. 986. 987. 988. 989. 990. 991. 992. 993. 994. 995. 996. 997. 998. 999. 1000.

a chapell doore, or at surhe a pyloure, within the same church, that than it shall be lesulle to the foresayde A. and to his heires to enter. In such case it nedeth nat to seke the feofee in any other place, nor to be in any other place but in the place comprised in the indenture, nor to be there more longer tyme than the tyme specyfyed in the same indenture, for to tender, or paye the money to the feoffee: &c.

**C**ALSO in such case where the place of payment is lymytte, the feoffee is nat bound to receyue the paymente in none other place, but in the place so lymytted. But yet yf he receyue the payment in any other place, this is good ynough, and as stronge for the feofee, as yf the resceyte hadde be in the same place so lymytted, &c.

**C**ALSO in this case of feoffments in mortgage, if the feoffour pay to the feoffee an horse, or a cuppe of syluer, or a ring of golde, or any other such thinge in full satisfaction of the moneye: and the other this receyueth, this is good ynough, and as stronge as if he had receyued the summe of money, though the horse, or any of the other thynges be nat the twenti part worth in value of the somme of money, for this that the other hath accepted it in playne and full satisfaction.

**A**lso if a man enfeoffe an other in fee vpon condycion, that he and his heires shall yelde to a straunger and to his heires a pecerly rent of .xx. s. and if he and his heires fayle of payment of this, that than it shal be lesull

Satisfac  
tion.



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to the feoffour and to his heires to entre, this  
is a good condycion. And yet in this case,  
thoughe suche a yerely rente be callyd an an-  
nuell rent, this is nat proprely a rente, for if  
it shall be rent, it oughte to be rente scrupce,  
rent charge, or rent secke, and yet it is none  
of them, for if the straunger were leased of  
this, and after it were to him denied, he shall  
never haue assise of this, for this that it p-  
sueth nat oute of anye landes. And so the  
stranger hath no remedy, pf anye suche yerely  
rente be behynde in this case, butte that the  
feoffoure and his heires maye entre. &c. and  
yet pf the feoffoure or his heires enter for  
defaute of payment, thane suche rent is gone  
for ever. And soe suche rente is but a paye-  
ment sette to the tenaunt, and to his heires,  
that pf he wylle nat paye this, after the  
fourme of the indenture, that they shall lese  
theyr lande by the entre of the feoffoure, or  
his heires for defaute of payement. And in  
this case it seemeth, that the feoffour and his  
heires oughte to seeke the straunger and his  
heires, if they be in Englande, because that  
no place is lyttled where the payment shall  
be made, and because that suche rente is nat  
goinge out of any lande. &c.

¶ And here note well two thynges. One is,  
that no rent, that is proprely sayd rent, maye  
be reserved vppon any feoffement, gyfte, or  
lease, but onely to the feoffoure, donour, les-  
sour, or to their heires, and in noo maner it  
maye be reserved to any strange persone.

But

# ESTAT. YPON CON. 78

But if two ioyntenauntes make a lease by dede indented, reseruing to the one of theym a certayne perely rent, that is good ynoughe to hym, to whom the rēt is reserued, for this that he is prerie to the lease, and nat a stranger thereto. *Cap. 54. 3*

**T**he seconde thing is, that no entre or re-entre whiche is all one, maye be reserued nor gyuen to any persone, but onely to the feoffour, or to the donour, or to the lessour, or to theyr heires, and suche entre may nat be alpyened nor graunted to any person. *Maxime*

**F**or if a man lette landes to an other for terme of lyfe by endenture, yeldyng to the lessour, and to his heires a certayn rente, and for defaute of paymente a reentre. *ic.* if after the lessour by a dede graunt the reuercion of the lande to an other in fee, and the tenaunte for terme of lyfe attorneth. *ic.* if the rente after be behynde, the graantee of the reuercion may distrayne for the rente, for this that the rent is incydent to the reuercion, but he may nat entre into the lande, and put oute the tenant, for the condicion broken, as the lessour myght or his heires, if the reuercion had ben continued in them. *ic.* and in this case the entre is taken away at al tymes, for the grantee of the reuercion may nat entre, *causa qua supra.* And the lessour nor his heires maye nat entre, for if the lessour may entre, thanne he oughte to be in his fyfste estate. *ic.* and that maye nat be, for this that he hathe alpyenyd from hym the reuercion. *ic.*



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**A**Lso if there be lord and tenant, and the tenant make a lease for terme of lyfe, yelding to the lessour and to his heires such peretpente, and for defaute of paymente a reentre. .ic. if after the lessour dye without heyr, durynge the state of the tenant for terme of lyfe, by whiche the reuersion cometh to the lord by waye of eschete, and after the rent of the tenant for terme of lyfe is behynde, the lord may distrayne the tenant for the rent behind, but he maye nat enter into the lande by force of the condycion. .ic. for this that he is nat heire to the feoffour. .ic.

**A**Lso yf lande be graunted to a man for terme of .ii. yeris vpon a condicion, that yf he pay to the grauntour within the sayde two yeris. xl. markes, that than he shal haue the land to hym and to his heires. .ic. In this case if the grauntee enter by force of the grant withoute any liverye of seisin, made to hym by the grauntour, and after he payeth to the grauntour the. xl. markes within the. ii. yeris, yet he hath nothyng in the land but for terme of. ii. yeris, for this that no liverye of seisin was to him made at the beginnyng: for if he had franktenement & fee in this case, bycause he hath perfourmed the condycion, thanne shoulde he haue franke tenement by force of the fyfte graunt, where no liverye of seisin was made therof, whiche shulde be agaynst reason. .ic. But yf the grauntour had made liverye of seisin to the grauntee by force of the graunt, than hath the grauntee the franke tenement

tenemente, and the fee vpon the same condy- Cap. 5.  
tion. &c.

**A**lso if lande be graunted to a manne for  
terme of .v. yerres, vpon condicion, that if he  
pay to the grauntour within the fyrste two  
yerres fortye markes, that than he shall haue  
fee, or elles but for terme of the fyue yerres,  
and lyuere of seiscyn is made to hym by force  
of the graunt. Nowe he hath fee simple con-  
dicionell. &c. And if in this case the graunter  
paye nat to the grauntour the fortye markes  
within the same two fyrst yerres, than imme-  
diately after the same two yerres the fee and  
the franke tenement is and shal be adiudged  
in the grauntour, for this that the grauntour  
maye nat after the sayde two yerres inconty-  
nent enter vpon the grauntee, for this that  
the grauntee hath yet title by thre yerres, to  
haue and to occupie the lande by force of the  
same graunt. And soo for this that the con-  
dicion of parte of the graunt is broken, and  
the grauntour may nat enter. the lawe shall  
putte the fee and the franke tenement in the  
grauntour. For if the grauntee in this case  
make waste, than after the breakynge of the  
condicion. &c. and after the two yerres, the  
grauntour shall haue his wytte of wast, and  
this is a good pfofe, that the reuercion is in  
hym. &c. But in suche case of feoffementes  
vpon condicion where the feoffour may enter  
lawfully for the condicion broken. &c. there the  
feoffour hath the franke tenement before the  
entre. &c.

Also



**A**LSO yf a feoffment be made vppon  
 such condicion, that the feoffee shall gyue the  
 lande to the feoffour, and to the wyfe of the  
 feoffour, to haue and to holde to them, and to  
 the heires of their bodies engendred, and for  
 default of suche issue to remayne to the righte  
 heires of the feoffoure: In this case yf the  
 husbande dye, the wyfe lyuynge, before es-  
 tate in the taylor made to theym, than oughte  
 the feoffee by the lawe to make estate to the  
 wyfe as lyke to the condicion, and as lyke to  
 the entente of the condycyon, as he maye  
 make it, that is to saye, to lette the lande to  
 the wyfe, for terme of lyfe, withoute em-  
 pechemente of waste, the remaynder after  
 her deceasse to the heires engendred of the  
 body of her husbande and hers, and for des-  
 fault of such issue the remaynder to the right  
 heires of the husbande. And the cause why  
 the lease shall be made in this case to the wo-  
 manne sole, without impechemente of waste,  
 is for this, that the condycyon is, that the  
 estate shall be made to the housbande, and  
 to his wyfe in the taylor. And if suche estate  
 hadde be made in the lyfe of the housbande,  
 than after the deathe of her housbande, she  
 hadde hadde estate in the taylor, whiche estate  
 is without impechement of waste: and so it  
 is reson, that if after a man may make estate  
 to the entente of the condycyon. &c. that he  
 shall make. &c. thoughe she canne nat haue es-  
 tate in the taylor, as she myghte haue hadde,  
 yf the gyfte in the taylor hadde be made to  
 the

will

the husbände, and to her, in the lyfe of her husbände. &c. Cap. 74

¶ Also in this case if the husbände and the wife haue issue and dye, before the giste in the taylor made vnto them &c. than ought the fesssee to make estate to the issue, and to the heyres of the body of the father and the mother ingendred, and for defaute of suche issue. &c. the remainder to the right heyres of the husbände. &c. And the same lawe is in other cases semblable. And if suche a fesssee wyl nat make suche estate whan he is reasonably required by theym, that ought to haue estate by force of the condition. &c. than may the feoffours of his heyres entre. &c.

¶ Also if a feoffement be made vpon condition, that the feoffee shall enfeoffe many men to haue and to holde to theym, and to theyr heyres for ever, and all they that oughte to haue estate dye before any estate made vnto theym, than ought the feoffee to make the estate to the heire of hym that curieth of theym, to haue and to holde to hym, and the heyres of hym that curieth. &c.

¶ Also if a feoffement be made vpon condition to enfeoffe an other, or to geue in the taylor to an other. &c. yf the fesssee before the performing of the condition, enfeoffe a strange person, or make a lease for terme of lyfe, than may the feoffour or his heyres entre. &c. for this that he hath disabled hym selfe to performe the condition, in soo moche that he made estate to an other. &c.



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**I**n the same maner it is, if the feoffee be-  
fore the condicion performed, lette the same  
lande to a straunger for terme of yeres. In  
this case the feoffour or his heyre may enter  
for this that the feoffee hath disabled him-  
selfe to make estate of the tenementes, accordyng  
to that that was in the tenementes, when estate thereof was made vnto hym, for  
yf he wyl make estate accordyng to the con-  
dicion. than may the lessee for terme of yea-  
res entre, and put oute hym to whome the es-  
tate is made, and to occupye this durynge  
his terme. And many haue sayde, that yf su-  
che a feoffement be made to a man sole, vpon  
the same condicion, and before that he hath  
performed the condicion, he taketh a wyfe,  
than the feoffour or his heire may incontinent  
enter, for this that if he hath made estate, ac-  
cordyng to the condycion, and after dyeth,  
his wyfe shall be endowed, and may recouer  
her dower by a wytte of Dower. And so  
by takynge of a wyfe the tenementes be putte  
in an other plyte, than they were at the tyme  
of the feoffement vpon condicion, for this  
that than no suche womanne was dowable,  
nor shulde be endowed by the lawe.

**I**n the same maner it is, if the lessee charge  
the lande by his dede of rente charge, before  
the performinge of condicion, or be bounde  
in a statute staple, or statute marchant, in su-  
che cases the feoffour and his heyres may en-  
ter, causa qua supra. For who so ever com-  
meth to the tenementes by the feoffement of  
the

the feoffee, then the tenementes muste be ly-  
able, and be put in execution by force of the  
statute marchaunt, or of the statute staple,  
quere. But whan the feoffour or his heires,  
for the cases aforesayde haue entred, soo as  
they ought, as it seemeth. &c. Than all suche  
thynges that befoze suche entre myght trou-  
ble or encombre the tenementes so geuen vpon  
pon condicion. &c. as touchynge the same te-  
nementes be vtterly defeted by their entre.

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**ALSO** if a man make a dede of feoffe-  
ment to an other, and in the dede is no condi-  
cion. &c. And whan the feoffour wyl make to  
hym lyuere of seilyn by force of the same  
dede, he maketh to hym liuere of seilyn vpon  
certaine condicions. In this case nothyng  
of the tenementes passeth by the dede, for  
this, that the condicion is nat compysed  
in the dede, and the feoffement is of suche  
force, as if no suche dede hadde been made  
therof. &c.

**ALSO** if a feoffement be made vpon  
suche condicion, that the feoffee shall not a-  
lyen the lande to noo man, this condicion is  
voyd, for this that whan a man is enfeoffed  
in landes or tenementes, he hath power to  
alien them to some person by the lawe, for if  
suche condicion shulde be good, than the con-  
dicion putteth the feoffee oute of all the po-  
wer, that the lawe geueth, whiche shulde be  
against reason, and for this, suche condicion  
is voyde. But if the condicion be suche, that  
the feoffee shall nat alien to one suche, na-  
myng

*Handwritten marginal note in cursive script, likely a library or ownership mark.*



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myng his name, or to any of his heyres, or the issues of suche one. &c. or such other lyke condicions taketh nat awaye all the power of alienacion of the feoffee. &c. than such condicion is good.

¶ Also yf tenites be geuen in the taylor vppon such condicion, that the tenat in the taylor, nor his heyres. &c. shal nat alien in fee, nor in taylor, nor for terme of others lyfe, but for theyr owne lyues. &c. suche condicion is good. And the cause is for this, that whanne he maketh suche alienacion and dyscontinuaunce of the taylor, he doeth contrary to the entent of the donour, for whiche the statute of westmyster the secunde cap. i. was made, by whiche estatute the estates in the taylor bee ordeyned, for it is proued by the woordes comprised in the same estatute, that the entent of the making of the same estatute was, that the will of the donour in suche cases shoulde bee obserued. And whan tenaunte in the taylor maketh suche dyscontinuaunce, he dooeth the contrarye to that. &c. And also in estates in the taylor of any tenementes, whanne the reuercion of the fee symple is in the donour, yf that he geue nat the remaynder ouer, or after the gyfte, graunteth the reuercion to an other person, whan suche dyscontinuaunce is made, than the fee symple of the donour in the reuercion, or of hym in the remaynder is dyscontinued, and for this that the tenaunte in the taylor shall do no suche thyng agaynst the profytte of his issues, and good ryghte, suche

such condicion is good, as it is aforesaid. .xc. Cap. 5.

**A L S O** a man maye gyue lande in the taylor bypon suche condycion, that yf the taylor in the taylor, or his heyres, alene in fee or in taylor, or for terme of an others lyfe .xc. And also that yf all the yssues commynge of the taylor in the taylor bee deade withoute issue, that than it shall bee lesulle to the donoure, and to his heyres to entre. .xc. And by suche waye the ryghte of the taylor maye be saued after suche dyscontinuaunce to the yssue in the taylor, yf there be anye, so that by waye of entre of the donoure, or of his heyres, the taylor shall nat be defeted by suche condycion. Quere de hoc. And yet if the taylor in the taylor in this case, or his heyres make anye dyscontinuaunce. .xc. He in the reuercion or his heyres, after that the taylor is determyned for defawlte of .xc. sewe. .xc. maye enter into the lande by force of the same condicion, and shall nat bee dyuen to sewe a wyttte of formedome in the reuercion. .xc.

**A L S O** a manne may nat plead in any action, that estate was made in fee, or in the taylor, or for terme of lyfe bypon condycion, but yf he vouche a recoorde thereof, or shewe a wyttynge vnder scale, prouynge the same condicion, for it is a comon erudicion and lernynge, that a man by pleadyng shall nat defete anye estate of franketennement by force of any suche condycion, but yf he shewe the pfofe of suche condycion in wyttynge. .xc.

**I i** excepte



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excepte it be in some especial cause, but of chatels reals, as of a lease made for terme of yerres, or of grauntes of wardes made by wardens in cheualrie, and of suche other. &c. A man may plede that suche gyftes or grauntes were made vppon condicion. &c. without shewynge of any wrytynge of condycion. And in the same maner a man may dooe of giftes and grauntes of chatelles personals, and of contrades personals. &c.

**A L S O** though that a man in some action may not plede a condicion that toucheth and concerneth franke tenement, without shewynge of wrytynge thereof, as it is aforesayde, yet a man may be holpen vppon suche condicion, by the verдите of twelue men takenne at large, in assise of Nouelle dysseisin, or in some other action, where the Justices wyl take the verдите of the twelue Jurours at large.

**A s** put the case that a man seyled of certayne lande in fee, letteth the same lande to a man for terme of lyfe without dede, vppon condycion to yelde to the lessoure a certayne rente, and for defaute of paymente a recente &c. by force of whiche lease, the lessee is seased as of franke tenement, and after the rent is behynde, by whiche the lessoure entreth in to the lande, and after the lessee arreyneth an assise of nouell dysseisin of the lande againste the lessoure, the whiche pleadeth that he doth no wronge ne no dysseisin, and vppon this the assise is taken: In this case the recognours,

tours of the assyse may save and yelde to the Justyces theyr verdyte at large vpon al the matter, as to say, that the defendaunte was seased of the lande in his demesne, as of fee, and so seased, let the same lande to the playntife for terme of his lyfe, yeldynge to the lessour suche an annuell rente payable at suche a feast. &c. and vpon suche a condicion, that if the rent be behynde at any suche feast, that it oughte to be paid, that than it shall bee leasfull to the lessour to entre. &c. by force of whiche lease the playntife was seased in his demesne as of franketenement, and after that the rent was behynde at suche a feast in suche a yere. &c. for whiche the lessour entred into the land, vpon the possession of the lessee, and prayeth the dyscrecion of the Justyces, if this bee a dysseisin dooen to the playntife or nat. And that for this that it appiereth to the Justyces, that this was no dysseisin done vnto the playntife. In so muche that the entre of the lessour was lawfull vpon him, the Justyces ought to gyve iudgement, that the playntife shall take nothyng by his wytt of assyse. And so in suche case the lessour shall be holpen, and yet was there neuer wrytyng made of the condycion, for the Jurours may in this case haue knowelage of the condycion that was declared and rehearsed vpon the lease made.

**I**n the same maner it is, of a feoffemente in fee, or a gyfte in the taylor vpon condicion, though neuer wrytyng were made therof. &c.



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And as it is saide of a verdyte at large in assise. &c. in the same maner it is in a wytte of entree founded vpon dysseisyn, and in all other actions, where the Justyces wylle take the verdyte at large, there where the verdyte at large is made, the maner of the entree entree is put in the issue.

¶ Also in suche case where the enquestes may say their verdyte at large, if they wyl take vpon them the knowelage of the lawe vpon the matter, they may say their verdyte generally, as it is putte in theyr charge, as in the case aforesaid, they may well say that the lessour disseised nat the lessee if they wil. &c.

¶ ALSO in the same case, if the case were suche, that after this, that the lessour had entered for default of payment. &c. that the lessee had entered vpon the lessour and hym disseised, in this case if the lessour arraigne the an assise agaynst the lessee, the lessee may barre hym of his assise, for he may pleade agaynst hym in barre, howe the lessour that is playntiffe made a lease to the defendand for terme of hys lyfe, sauynge the reuercion of the playntiffe, the which is a good plee in barre, in so muche that he knowledgeth the reuercion to bee to the playntiffe: and in this case the playntiffe hath no matter to helpe hym, but the condicion made vpon the lease, and that he may nat pleade, for that he hath no wytyng of it, and in so muche that he may nat aunswere to the barre, he shall bee barred. And so in this case ye may se, that a man  
is

is disseised, and yet shall he haue no assyse. And further if the lessee be plaintife, and the lessour defendaunte, he shall barre the lessee by verbite of the assyse. &c. But in this case where the lessee is defendaunt, yf he wyl nat pleade the sayde plee in barre, but pleade no wronge nor disseisyn, than the lessour shall recouer by assyse. &c. causa qua supra.

**ALSO** because suche condicions bee moste commonly putte and specified in dedes indented, comme lyttell thyng shall bee sayde here to the my sonne of indentures, and of a dede poll, conteynynge condicions.

**CAND** it is to wytte, that if the Indenture be by pertite, or tripartite, or quadypartite, all the partes and the Indenture bee but one dede in the lawe, and euery parte of the Indenture is of hym selfe of as greatte force and effecte as all the partes together. And the makynge of Indentures is in two maners. One is to make theym in the thirde personne, an nother maner is to make theym in the fyfte personne. The makynge in the thirde personne is, as in suche fourme.

Hec indentura facta inter R. de P. ex vna parte, & V. de D. ex altera parte testat qd predictus R. de P. dedit & concessit, & hac presenti carta indentata confirmavit prefato V. de D. talem terram. &c. habend. & tenend. sub condicione. &c. In cuius rei testimonium partes predictae sigilla sua alternatim apposuerunt. Vel sic: In cuius rei testimonium vni parti



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**The forme of an indenture in the third pson.** D. of the other part, witnesseth that the foresayde R. of P. hath geuen and granted, and by this present dede indeted, hath confyrmed to the foresayde W. of D. suche lande to haue &c. vpon the condicion. &c. In wytnes wherof the parties beforesayde interchaungeably haue put to their seales, orels thus. In wytnesse wherof to one parte of this indenture remaynyng with the sayde W. of D. the foresayd R. of P. hath putte to his scale, and to the other parte of the sayde indenture remaynyng with the sayd R. of P. the sayde W. of D. hath put to his scale, geuen. &c.

Suche endenture is called indenture made in the thyrde person, for this that the verbes. &c. be in the third person, and suche forme of indentures is of moze sure makynge, for this that it is moze comonly vled. The makynge of indentures in the first person is in suche forme.

Omnibus christifidelibus ad quos presentes littere indentate peruenerint, A. de B. salutem in domino sempiternam. Sciatis me dedisse concessisse, & hac presenti carta mea indentata confirmasse C. de D. talem terram. &c. Vel sic: Sciant presentes & futuri, qd ego A. de B. dedi, concessi, & hac presenti carta mea indentata confirmaui C. de D. talem terram &c

&c. habendum & tenend' sub conditione se- Cap. 5.  
quenti. &c. In cuius rei testimoniu tam ego pre-

dict' A. de B. q' predict' C. de D. his indentu-  
ris sigilla nostra alteru apposuimus. Vel sic:  
In cuius rei testimoniu ego prefatus A. uni  
parti huius indenture sigillum meum appo-  
sui: alteri uero parti eiusdem indenture pre-  
dictus C. de D. sigillum suum apposuit. &c.

**T**o all true christen people, to whom this An indenta-  
ture in the  
first pson.  
present wytyngge endented shall come, A. of  
B. gretynge in our lord euerlastyng. know-  
ye me to haue geuen and graunted, and by  
this my present dede endented, to haue con-  
firmed to E. of D. suche lande. &c. Or elles  
thus, knowe all menne that be presente, and  
them that be to come, that I, A. of B. haue  
geuen and graunted, and by this my present  
dede indented, haue confyrmmed to E. of D.  
suche lande. &c. to haue. &c. vppon condicion  
folowynge. In wytnesse wherof, as well I,  
the sayde A. of B. as the foresayde E. of D.  
to these indentures interchaungeablye haue  
put to our seales, or elles thus. In wytnesse  
wherof I the foresayde A. of B. to one parte  
of this endenture haue put to my scale, and  
to the other parte of the same endenture the  
foresayde E. of D. hath put to his scale. &c.

**A**N D it semeth that suche an endenture  
made in the firste persone, is as good in the  
lawe as the endenture made in the third per-  
son, whan bothe parties haue therto putte  
their seales, for if in the Indenture made in  
the thirde persone, or in the fyrste persone, yf

A b

menzion



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mention be made, that the grauntour hath sette his scale onely, and the grauntee not, this is the indenture onely the dede of the grauntour. But where mention is made, that the grauntee hath sette his scale to the indenture &c. than is the indenture as well the dede of the grauntee, as the dede of the grauntour, And thus it is the dede of bothe, and also euerye parte of the indenture is the dede of bothe partes in suche case. &c.

**A L S O** pf estate be made by indenture to a man for terme of his lyfe, the remainder to an other in fee vppon certayne condycion &c. and if the tenaunt for terme of lyfe hath sette his scale to the parte of the indenture, and after dyeth, and he in the remaynder, &c. entreth in the lande by force of his remaynder. In this case he is holden to perforce all the condicions comprised within the indenture, as the tenaunt for terme of lyfe ought to do in his lyfe, and yet he in the remaynder neuer sealed any parcelle of the indenture, but the cause is, that in so moche that he entreth and agreeth to haue the lande by force of the indenture, he is holden to perforce the condicion within the indenture, if he wil haue the lande. &c.

**A l s o** if a feoffement be made by dede poll vppon condicion. &c. and for this that the condicion is nat perforced the feoffour entreth and hath the possession of the dede poll, if the feoffee byng an action of that entre agaynst the feoffour, it hath ben questioned, pf the feoffour

feoffour may pleade the condicion. .xc. by the dede polle agaynste the feoffee. And somme haue sayde naye, in so muche that it scemeth vnto theym, that a dede polle, and the proprietye of the same dede appertayneth to hym to whom the dede is made, and nat to hym that made the dede. And in so muche that suche a dede appertayneth nat to the feoffoure, it semeth to them that he may nat plead this dede. .xc. And other haue sayd the contrarie, and haue shewed dyuers causes, One is yf the case be suche, that in the action betwene theym, yf the feoffee pleade the same dede and shewe this to the courte. In this case in so muche that the dede is in the court, the feoffour maye shewe to the courte, howe in the dede be dyuers condicions to be perfourmed of the parte of the feoffee, and for this that they be nat perfourmed he entred. .xc. and thereto he shall bee receiued: by the same reason whan the feoffoure hathe the dede in hand, and sheweth it to the courte, he shall bee well receyued to pleade of this. .xc. And namelye whanne the feoffour is priuie to the dede, for he oughte to be priuie to the dede, whan he made the dede.

Also yf two men make or do a trespass to an other, the whiche releaseth to one of them by his dede, all actions personelles. .xc. Not withstandynge he sueth an action of trespass against the other, than the defendaunte may welle shewe, that the trespassse was dooen by hym and an nother, his felowe, and that the plain-

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The pleas  
dyngge of a  
condicion  
by a dede  
poll.



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playntyfe by the dede that he shewed for the released to his felowe all actions personelles, and yet suche dede appertaynethe to his felow, and not to him, but for this that he may haue aduantage by the dede, if he may shewe the dede to the courte, he maye well pleade therfore. By the same reason, in the other case, whan the feoffoure oughte to haue aduantage by the condicion compysed within the dede poll.

**¶ A L S O** if the feoffee gaue or graunted the dede poll to the feoffoure, suche graunte shall be good, and than the dede and the proprietye of the dede appertaynethe to the feoffour. And whan the feoffour hathe the dede in hande, and pleadeth it to the court, it shall be rather taken, that he came to the dede by a lawfull meane, than by a forcious meane, and so it seemeth, that they maie well pleade suche a dede poll, that comprehendeth condicion. *sc.* If he haue the dede in hande. *sc.* *Idco seper quere de dubiis, quia per rationes peruenitur ad legitimam rationem.*

**¶ Estates vpon a condicion in lawe.**

**¶** Estates that men haue vpon condicion in the lawe bee suche, that haue a condicion by the lawe annexed to theim, thoughe it be not specified in writynge, as if a man graunt by his dede to an other, the offyce of a parkshyp of a parke, to haue and to occupie the same offyce for terme of his lyfe, the estate that he hathe in the offyce is vpon condicion in the lawe, that is to saie, that the parker well and truly shall kepe the parke, and do this that

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to his offyce appertaineth to do, or otherwise that it shall be lefull to the grantoure and his heires, to put hym out, and to graunt that to another yf he wyll. &c. and suche condycion as is vnderstande by the lawe to be annexed to any thyng, is as stronge, as if the condycion wer set or put in wytyng. Cap. 5.

**I**n the same maner it is of grantes of offces of stewards, constables, beadles, bailiffs, and other offycers, but if suche office be graunted to a man to haue and to occupie by hym, or by his deputie, as he ought by the lawe, than if the office be occupied by him or his deputie, as it ought by the lawe to be occupied, this sufficeth for hym, or els the grantour or his heires maie put him oute, as it is aforesayd.

**A**L S O estates of landes or tenementis maie be vpon condycion in the lawe, though that vpon the estate made there was no reserualle made of the condicions: As put the case that a lease be made to the husbnde and his wyfe, to haue and to holde to theym, duringe the couerture betwene theym, in this case they haue estate for terme of theyr two lyues, vpon condicion in lawe, that is to say, if one of theim dye, or if deuorice be made betwene theim, that than it shall be lefull to the lessour and his heires to enter. &c. & that they haue estate for terme of theyr two lyues, it is proued thus. Every man that hath estate or frank tenement in any landes or tenementes, either he hath estate in fee, or in fee taylor, or



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for terme of lyfe, or for terme of his owne lyfe, or for terme of an nothers lyfe, and by suche lease, they haue franke tenement. But they haue nat by that grant fee, nor for taylor, nor for terme of an nothers lyfe. Ergo they haue estate for terme of theyr two lyues, but this is vppon condicion in the lawe in forme aforesaid. And in this case if they make wast, the lessour shall haue agaynst theim a writte of waste, supposynge by his writte, Quod a tenent ad terminum vite. &c. But in his plee he shall declare howe and in what maner the lease was made.

In the same maner it is if an abbot make a lease to a man to haue and to holde to hym durynge the tyme that the lessour is abbotte. In this case the lessee hath estate for terme of the lyfe of the same abbotte, but this is vppon condicion in lawe, that is to say, that yf the abbot resygne or be deposed, that it shall be lefull to his successour to entre. &c.

Also a mā may se in the boke of assise. An. 38. C. 3. a plee in assise in this form that ensueth: Assyse of nouelle dysseisin was sommetyme brought agaynst one A. that pleaded to the assyse, and was founde by verdyte, that the auncester of the playntiffe deuylded the tenementes to be solde by his executour, to make distribucion of the money for his soule, and it was found that incontinent after the deth of the testatour, a man tendered to hym certayne somme of moneye for the tenementes, but nat to the value, and that the executoure after

after helde the tenementes in his owne hande by two yere, to the entente to haue solde the tenementes the moze deerer to some other, and it was founde that he had all this whyle after taken the profyttes of the tenementes to his owne vse, without any thyng doynge for the soule of the deade. Whombyape Justyce sayde. The executour in suche case is holden by the lawe, to make the sale as soone as he may after the deathe of the testatour, and it is founde that he refused to make the sale, and so the defaute was in hym, and also by force of the deuise, he was holdē to haue put all the profytes of the saide tenementes to the deades vse, and it is found that he hath taken them to his owne vse, and soo an nother defaute is in hym, wherfoze it was adiudged, that the playntyfe shoulde reconer.

**A**N D thus it appereth by the said iugement, that by force of the sayde deuise, that the executour had none estate nor power in the tenementes but vppon condycion in the lawe. And many other cases there be of estates vpon condicion in the lawe, and in suche cases it nedeth nat to haue shewed any dede rehersynge the condicion. &c. for that the lawe in it selfe pourporteth the condycion. &c. Ex paucis dictis intendere plurima possis.

More shall be sayde of Condycions in the nexte Chappyer, in the chappyer of Releases, and alsoo in the Chappyer of Dyscontinuance.

Dis:



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¶ Dyscentes.

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**D**yscentes that take awaye entrees be in two maners, that is to say, where the dyscent is in fee, or in fee tayle.

Dyscentes in fee, that take awaye entrees be, where a man seased of certayne landes or tenementes is by an nother dysseised, and the dysseysour hath issue, and dyeth of suche estate seased, nowe the tenementes descende to the issue of the dysseysour by cours of the lawe as heire vnto him.

**A**ND for this that the lawe putteth the landes or tenementes vpon the issue, and the issue cometh to the tenementes by cours of the lawe, and not by his owne dede, the entre of the disseisee is taken away, and is there of put to sue his wytte of entre vpon dysseysyn agaynst the heire of the dysseysour, to recouer the lande.

¶ Dyscente in the taile.

¶ Dyscentes in the tayle that take awaye entrees be, where a man is disseised, and the dysseysour geueth the same lande to an other in the tayle, and the ternaunt in the tayle hath issue, and dieth seased of suche estate, and the issue entreth, in this case the entre of the disseisee is taken away, and he is put to sue agaynst the issue of the ternaunt in the tayle, a wytte of entre vpon dysseysyn. &c.

**A**nd note well, that in such dyscentes that take awaye entrees, it behoueth that a man dye seased in his demesne as in fee, or in his demesne as in fee tayle, for dyngse seased for terme

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**C** A L S O a dyscent of reuercion oz of res  
maynder shall neuer take away entre. As yf  
a manne disseise me, and the disseisee letteth  
the tenementes to a man for terme of lyfe, the  
remaynder in fee, if he in the remaynder haue  
issue and dye, and after the tenaunt for terme  
of lyfe dyeth, the issue of hym in the remayn-  
der entreth: In this case the entre of the dis-  
seise is not taken awaye, so that in suche cas-  
ses, that take away entrees by force of dis-  
centes, it behoueth that he that dyeth leased  
haue fee and franktenement, oz fee tayle  
and franktenement at the time of his dying,  
or els suche dyscent taketh nat away entre.

**A L S O** as it is sayde of discentes that discede to the issue of theym that dye sealed &c. the same lawe is, where they haue none issue, but the tenementes discede to the brother, syster, vncle, oz some other couzyn of hym that dyeth sealed &c.

¶ Also if there be lord and tenant, and the tenant be disseised, and the disseisor alieneth to another in fee, and the alienee dyeth without heir, and the lord entreath as in his escheate. In this case the disseisor may enter upon the lord, for this that the lord cometh not to the land by descent, but by way of escheate. *Plac. 9. 13. 7.*

¶ Also if a man seased of certayne lande in fee, or in fee taylor vppon condicion, to yelde certayne rent, or vpon other condicio, though

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that



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that suche tenant seased in fee, or in fee taylor  
dye seased, yet if the condicion bee broken in  
their lyues, or after their decesse. &c. this tak-  
eth nat away the entre of the feoffour, nor  
of the donoure, or of theyr heires, for this  
that the tenauncie is charged with the condi-  
cion, and the estate of the tenauncie is con-  
dicionall, to whose handes soo ever the te-  
nauncie commeth.

**A**lso yf suche a tenant vpon condicion be  
dysseised, and the disseisour dy therof seised,  
and the lande descendeth to the heire of the  
disseisour, nowe the entre of the tenant vpon  
condicion that was disseised, is taken away,  
but yet if the condicion be broken. &c. thanne  
maye the feoffour or the donoure, that made  
the estate vpon condicion, or their heires, en-  
ter. &c. *causa qua supra*.

**A**lso if a disseisour dye seised, and his hei-  
re enter. &c. the wyche endoweth the wyfe  
of the dysseisour of the thirde part of the te-  
nementes, in this case as to the thirde parte,  
that is assigned to the wyfe in dower, incon-  
tinent after that the wyfe entreth, and hath  
the possession of the same thirde part, the dis-  
seisie maye lawfully enter vpon the posses-  
sion of the wyfe in the same thirde parte. And  
the cause is for this, that whan the wife hath  
hir dower, she shall be adiudged in poss. im-  
medyately by hir husbände, and not by the  
heire, and soo as to the franke tenemente of  
the same thirde parte, the dyscent is defeted.  
**A**nd thus ye may see, that befoze the dowa-  
ment

mente the disseisie myghte not enter in anye **Cap. 6.**  
 part. &c. and after the dowerment, he maie en-  
 ter vppon the wyfe, and yet he may nat enter  
 vpon the other two partys, that the heire of  
 the disseisour hath by discent. &c.

¶ Also if a woman be seased of lande in fee,  
 wherof I haue right and title to enter, if the  
 woman take an husbande and haue issue be-  
 twene them, and after the wyfe dieth seased,  
 and after that the husbande dieth, and the is-  
 sue entreth &c. In this case I maye enter vp-  
 pon the possessyon of the yssue, for this that **Contra P.**  
 the issue commeth nat to the tenementes im- **9.H.7.M.**  
 mediately by discente, after the deathe of his **37.H.6.**  
 mother, but by the death of his father. &c.

¶ Also yf a disseisour enfeoffe his father in  
 fee, and the father entreth and dyeth of such  
 estate seased, by whiche the tenementes des-  
 cende to the dysseisour, as to the sonne and  
 heire. &c. In this case the dysseisie may well  
 entre vppon the disseisour, nat withstanding  
 the dyscente, for this that as to the dysseisyn  
 the dysseisour shal bee adiudged in but as  
 dysseisour, not withstandinge the dyscente,  
 quia particeps criminis &c.

¶ Also yf a manne seased of certayne landes **This case**  
 in fee, hath issue two sonnes, and dyeth sea- **is iudged 4.**  
 sed, and the yonger sonne entreth by abate- **of E. 4. in**  
 ment in the lande, the whiche hath issue, and **the xv. lese.**  
 of this dyeth seased, and the tenementes dys-  
 scende to the issue, and the issue entereth into  
 the lande, in this case the elder sonne or his  
 heire maye enter by the lawe vppon the yssue



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of the yonger sonne, nat withstandynge the discente, for this that whan the yonger sonne abated in the lande, after the death of his father befoze any entre of the elder made, there the lawe entendeth, that he entred in the land and claymyng it as heire vnto his father, and for this that the elder brother claymeth by the same title, that is to say, as heire vnto his father, he & his heires may enter vpon the issue of the yonger brother, not withstandynge the discent. &c. for this that they clayme by oone selfe title. And in the same maner it shall bee, yf there be many discentes frome one issue to an nother issue of the yonger sonne. &c. But in suche case if the father were seased of certayne landes in fee, and hath issue two sonnes and dyeth, and the elder sonne entereth and is seased. &c. And after the yonger brother dysseiseth hym, by whiche dysseisyn he is seased in fee, and hath issue, and of suche estate dieth seased, than the elder brother may nat entre, but is putte to his wytte of entre vppon dysseisyn for to recouer the lande. And the cause is for this, that the yonger brother commeth to the tenementes by a wronge dysseisyn made vnto his elder brother. And for that wronge the lawe maye nat take it, that he clayme as heire to his father, no moze than a straunge persone, that had dysseised the elder brother, that neuer had any title. &c.

¶ And so maie ye se the diuersitie, where the yonger brother entereth after the deathe of his father, befoze any entre made by the elder brother

brother in suche case. &c. and where the elder brother entereth after the death of his father, and after is dysseised by the yonger brother &c. In the same maner it is, if a man seased of certayne lande in fee, hath issue two daughters, and dyeth, and the elder daughter entereth in the lande, claymynge all the lande to her, and therof onely taketh the profytes, and hath issue, and dyeth seased, by whiche his issue entereth, whiche issue hath issue, and dyeth seased, and the secounde issue entereth. Et sic ultra. yet the yonger daughter, or his issue as to the halfe, maie entre vppon every issue of the elder daughter, nat withstandinge suche descent, for this that they clayme by oone selfe title. &c. But in suche case yf bothe two sisters come into the lande to enter, after the death of their father, and thereof were seased, and after the elder sister therof dysseised the yonger sister of that that to her belongeth, and thereof is seased in fee, and hath issue, and of suche estate dyeth seased, by whiche the tenementes dyscende to the issue of the elder sister, than the yonger sister nor her heires may nat enter. &c. Causa qua supra.

Also if a man seased of certayne lande in fee, hath issue two sonnes, and the elder brother is bastarde, and the yonger brother mulier, and the father dyeth, and the bastarde entereth, and claymeth as heire vnto his father, and occupieth the land all his lyfe, without any entre made vppon hym by the mulier, and the bastarde hath issue, and dyeth of

¶.iii

such

This is the case of the  
 issue of the elder sister  
 and the issue of the  
 younger sister



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Suche estate ceased in fee, and the lande descendeth to his issue, and his issue entereth. &c. in this case the mulier is without remedye, for he may nat entre, nor haue any action for to recouer the lande, for this that there is an auncient lawe in suche case vled. &c. But hit hath ben an opinion of some men, that this shall be vnderstande where the father hath a sonne a bastarde by a woman, and after he weddeth the same womanne, and after the spousaile, he hath issue by the same woman a sonne or a daughter mulier, and after the father dyeth. &c. If suche a bastarde entre. &c. and hath issue, and dyeth ceased. &c. than shall the issue of suche a bastarde haue the lande clerely to hym, as it is aforesayd. &c. And nat any other bastarde bozne of the mother that was nat espoused to his father. And this seemeth a good and reasonable oppinion. For suche a bastarde bozne before the espousels solemnysed betwene his father and his mother, by the lawe of holy churche, is mulier, though that by the lawe of the lande he is a bastard bozne, and so he hath colour of entre as heire to his father, for this that he is by one lawe mulier, that is to saie by the lawe of holy churche. But otherwyle it is of a bastarde, that hath no manner of colour to enter as heire, in so muche that he may nat by noo lawe be sayde mulier. &c. for suche a bastard is sayde, Quasi nullius filius. But in the case aforesayde, where the bastarde entreth after the death of his father, and the mulier put-  
teth

See  
miller

seth hym out, and after the bastarde dysseiseth the mulier and hath issue, and dyeth sealed, and the issue entreth, thā the mulier may haue a wytte of entre vpon disseisyn against the issue of the bastarde, and recouer the land &c. And soo maye ye see the diuersitie, where suche a bastarde continueth his possession all his lyfe without any interruptiō, and where the mulier entreth and interrupteth the possession of suche a bastarde. &c.

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**A L S O** if a chylde within age haue title and cause to enter into any landes or tenementes vpon an other, that is seised in fee, or in fee tayle of the same landes or tenementes, yf suche a man that is soo seased, dye of suche estate seased, and the landes descende to his issue, durynge the tyme that the chylde is within age, suche dyscende shall nat tolle the entre of the chylde, but that he may entre vpon the issue, that is in by dyscent. &c. for this that noo laches shall be adiudged in a chylde within age in suche case. &c.

**A L S O** if the husbande and his wyfe, as in ryght of the wyfe haue title and ryght to enter in the tenementes, that an other hath in fee or in fee tayle, and suche a tenaunt dyeth seyled. &c. In suche case the entree of the husbande is taken away vpon the heire that is in by dyscent. But if the housbande dye, than the wyfe may well enter vpon the issue whiche is in by dyscende, for this that the laches of the husbande shall nat turne the wife and hir heires to p̄iudycce nor damage, in

¶ iii

such



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suche case, but that the wyfe and hir heyres may well entre vppon suche heire, whiche is in possession of the tenancy by dyscent. And this shalbe vnderstande of a title of entree, whiche falleth durynge the couerture.

But the courte helde, 13. 9. 13. 7. where suche a title is geuen to a woman soole, which after taketh a husbände, whiche entreth nat but suffreth a dyscēt. &c. there it is otherwise: for it shall be sayde, it was the womans folw, to take suche a husbände, that entred not in tyme. &c.

**A L S O** yf a manne that is nat of hoolle mynde, that is to say in latine, Qui non est compos mentis, hath cause to entre into any suche tenementes, if suche dyscent vnto. be had in his lyfe, durynge the tyme that he was out of his mynde, and after dyeth, his heire may well enter vpon hym that is in by dyscent.

And in this case ye maye see, that the heire maye enter, and yet his auncester that hadde the same title may nat enter, for he that was oute of his mynde, at the tyme of suche dyscent, yf he wyl enter after suche a dyscent, if action vpon this be sewed agaynst hym, he hath nothyng for hym to pleade, or to helpe hym, but to say, that he was out of his mynde at the tyme of suche dyscent. &c. And he shall nat be receyued to saye this, for this that no manne of full age shall be receyued in any plee by the lawe to falsifie, or dyscable his owne persone. But the heire maye well dyscable the persone of his auncester, for his owne

done aduantage in suche case, for this that **Cap. 6.**  
 no laches maye be adiudged by the lawe in  
 hym that hath no discrecion in suche case.

And yf suche a man out of his mynde make  
 a feoffement. *ic.* he maye nat entre, ne haue a  
 wytt called *Dum non fuit compos mentis. &c.*  
*causa qua supra.* But after his deth his heire  
 may well entre or haue the same wytt *Dum* **C. 12. C. 4**  
*non fuit compos mentis*, at his electiō. The  
 same lawe is, where a chylde within age ma-  
 keth a feoffement, and dyeth, his heire maye  
 entre, or haue a wytt of *Dum fuit infra as-*  
*tatem. &c.*

¶ Also yf I bee disseised by a chylde with **C. 12. C. 3.**  
 in age, that alpeneth to an other in fee, and  
 the alpenee dyeth seised, and the tenementes  
 descende to his heire, the childe beyng within  
 age, myne entre is taken away. But yf the  
 chylde within age entre vppon the heire that  
 is in by dyscent, as he well may, for this that  
 the same dyscent was durynge his nonage, thā  
 I may well enter vpon the disseisour, for this  
 that by his entre he hath defeted and adiu-  
 led the discent.

¶ **A N D** in the same maner it is, where I  
 am seised, and the disseisour maketh a feoffe-  
 ment in fee vpon condicion. *ic.* and the feoffee  
 dyeth of suche estate seased. *ic.* I may nat en-  
 tre vpon the heire of the feoffee. But yf the  
 condicion be broken, so that by such cause the  
 feoffour entreth vppon the heire, now we may  
 I well enter, for this that whan the feoffour  
 or his heires entred for the condicion broken



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the discent is utterly defeted.

**A L S O** if I be disseised, and the disseisour hath issue, and entreth into religion, by force wherof the landes descenden to his issue, in this case I may well enter vpon the issue, and yet there was a dyscent. But for this that suche dyscent commeth to the issue by the fathers dede, that is to saye, for this that he entred into religion. &c. and the dyscent commeth nat to hym by the dede of god, that is to saye, by death. &c. myn entre is congeable and lafull: for yf I arrayne assise of nouel disseisin agaynst my disseisour, though that he after entreth into religion, this shall nat abate my wytte. But my wytte this nat withstandynge, shall abyde in his force and strengthe, and my recoueree agaynst hym shall be good. And by the same reason, the discent that came to his issue by his own dede may not put me from myne entre. &c.

**A l s o** yf I lette vnto a man certayne landes for termz of twentie yere, and an other dysseiseth me, and putteth oute the termour and dieth seyled, and the tenementes descend to his heire, I may not entre, and yet the lessee for terme of yeres may wel enter, for this that by his entre he putteth nat out the heire that is in by descent fro the franke tenement that vnto hym descended: But onely to haue the tenementes for terme of yeres, the whyche is no expulsiunge of the franke tenement of the heire that is in by dyscent. But othe wyse it is where my tenant for terme of yere

is disseised. &c. *Causa qua supra.*

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¶ Also it is saide, that yf a man seised of tenementes in fee by occupacion in tyme of warre, and dyethe therof seised in tyme of warre, and the tenementes dyscende to his heyre, suche dyscend putteth no man oute of his entre. And this a man may se in a plee on a writ de Appel. An. 7. E. 2.

¶ Also no dyenge seised, where all the tenementes cometh to an nother by succession, shall take away the entre of any persone, &c. As of prelates, abbottes, priours, deanes, or parsons of churches, or other body polyphe &c. though that there were twenty dyenges seised, and twentie successions, this putteth no man frome his entre, for this is nat properly callyd discent. &c. More shall be sayd of discentes in the next chapter.

### ¶ Continuall claime. Ca. vii.

Continuall claime is where a manne hath the right and title to enter into any landes or tenementes, whereof an nother is seised in fee, or in fee taylor, yf he that hath title to enter make continuall claime to the landes and tenementes before the dyenge seised of hym that holdethe the tenementes, than though suche a ternaunt dy thereof seised, and the landes and tenementes descende to his heyre, yet may he that hath made suche claime, or his heires enter into the landes and tenementes so descended, because of the continual



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tinuall clayme made, nat withstandynge su  
che discent.

**A**s in case a man be dysseised, and the dis  
seisee maketh continuall clayme to the tenes  
mentes in the lyfe of the dysseisor, though  
the dysseisor die seased in fee, and the lande  
descendeth vnto his heire, yet maye the dys  
seisee enter vppon the possession of the heire,  
nat withstandyng suche discent.

**I**n the same maner it is, if tenaunte for  
terme of lyfe alen in fee, he in the reuercion  
or he in the remainder maie enter vpon the a  
lyence. And yf suche alylene dye seased of su  
che estate, withoute contynuall clayme made  
to the tenementes, before the dyenge seased  
of the alylene, and the tenementes because  
of the dyenge seased of the alylene: descende  
vnto his heire: **T**hanne maye nat he in the  
reuercion, nor he in the remainder entre. But  
if he in the reuercion, or he in the remaynder  
that hath cause to enter vppon the alylene,  
made contynualle clayme to the tenementes,  
before the dyenge seased of the alylene, than  
suche a man may enter after the death of the  
alylene, as well as he myght in his lyfe. &c.

**A**lso if landes be let vnto a man for terme  
of his lyfe, the remaynder vnto an other for  
terme of lyfe, the remainder to the third man  
in fee, yf the tenaunte for terme of lyfe alen  
in fee, and he in the remaynder for terme of  
lyfe maketh continual clayme vnto the lande  
before the dyenge seased of the alylene, and  
after the alylene dyeth seased. &c. and after he

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in the remainder for terme of lyfe, byethe be- Cap. 7.  
 fore any entre made by hym. In this case he  
 in the remainder in fee, maie entre vppon the  
 heyre of the alpenee bycause of contynualle  
 clayme made by hym, that had the remayn-  
 der for terme of his lyfe, for this that suche  
 right that he hath to enter, shall goe and re-  
 mayne to hym in the remainder after him, in  
 so muche that he in the remainder in fee, may  
 nat entre vpon the alpenee in fee, durynge the  
 lyfe of hym in the remaynder for terme of  
 life, and because that he myght nat thā make  
 continual clayme: for none may make conti-  
 nual claime but whā he hath title to entre &c.  
 But it is to se to the my chyldre, howe and in  
 what maner suche continuall clayme shall be  
 made, and this to learne well, thre thynges  
 there bee to be vnderstand.

The fyrst thyng is, if a man haue cause to  
 enter in any landes or tenementes in dyuers  
 townes within one shyre, if he enter in anye  
 parcell of the landes or tenementes, that be  
 in one towne, in the name of all the landes or  
 tenementes, into which he hath ryght to en-  
 tre, within all the townes in the same shyre,  
 by suche entre he hath as good possession and  
 seisin of suche landes or tenementes, wheres-  
 of he hath the title to enter, as if he had entered  
 in dede into euerye parcell, and this seemeth  
 great reason. For if a man wylle enfeoffe an  
 other withoute dede, of certayne landes or  
 tenementes that he hath in manye townes  
 within one shyre, and he wylle deliuer seisin

In what  
 wise claime  
 ought to be  
 made.



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to the feoffee of parcell of the tenementes within one towne in the name of all the landes or tenementes that he hath in the same towne, and in all the other townes &c. all the sayd tenementes. &c. shal passe by force of the sayde livery of seisin to hym, to whom such feoffment in suche maner is made: And yet he to whome suche livery of seisin is made, hath no ryght to all the landes and tenementes in all the townes, but bycause of the livery of seisin made of parcell of the landes or tenementes in oone towne, A multo fortiori, it semeth good reason, that whanne a man hath title to entre into landes or tenementes in dyvers townes, within one shyre, before any entre by him made, that by the entre of hym made in parcell of the tenementis in one towne, in the name of all the landes and tenementes, to the whiche he hath title to entre within the same shyre, thys is a seisin of all in hym, and by suche entre he hath possession and seisin in dede, as if he had entred into every parcell. &c.

**T**he seconde thyng is to vnderstand, that yf a man have tittle to enter into any landes or tenementes, yf he dare nat enter in the same landes or tenementes, nor in anye parcell thereof, for doubte of beatynge, or for doubte of maimynge, or for doubte of death, yf he go and approche as nygh the tenementes as he dare for suche doubte, as is aforesaide, and clayme by worde the tenementes to be his, incontinente by suche clayme he hath a possessio

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possession and seisin in the tenementes, aswel as if he had entred in dede, though he hadde neuer possession or seisin of the same landes or tenementes before the sayde clayme. And that the lawe is suche, it is well proued by a plee of an assise in the booke of assyse. anno 38. Edward. 3. the tenour of whiche ensueth in this forme.

**I**n the countie of Dorset before the Justices, it was found by verdite of assyse, that the plantiffe, which had right by disceit of heritage, to haue the tenementis, put in plaint at the time of the deth of his aunceler, which was dwellinge in the towne where the tenementes were, and by wordes claymed the tenementes among his neyghbours, but for dout of death, he durst nat approche vnto the tenementes, but byngeth assyse, and vpon the mattier found, it was awarded, that he shuld recover. &c.

**T**he thirde thing is to vnderstande with in what tyme the clayme, that is sayd contrynuall clayme, shall serue and helpe hym, that maketh the clayme and his heyres.

And as to this it is to wote, that he that hath tittle to enter whan he wyl make his clayme, yf he dare approche vnto the land, than it behoueth hym to go vnto the lande, or to parcel of it, and make his clayme, and yf he dare nat approche vnto the lande, for doubte or drede of beatyng, maymyng, or deathe, than it behoueth him to go and to approche as nyghe as he dare toward the land, or parcell thereof  
and



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and make his clayme. And if his aduersarie that occupieth the lande, dyeth ceased in fee, or in fee taylor, within a yere and a daye after suche clayme made, by whiche the tenementis descend e vnto his sonne as heire vnto hym, yet may he that made the clayme entre vpon the possession of the heire. &c. But in this case after the yere and the daye that suche clayme was made, if none other clayme be made, of the father than dyed ceased, the morowe after the yere and the daye, or at an other day after &c. than may nat he that made the clayme enter. And therfore if he that made the clayme wyll be sure alwaye, that his entre shall nat be taken away by suche discente, it behoueth hym, that he within the yere and the daye after the fyfste clayme made, to make an other clayme in the forme aforesayde. And within the yere and the day after the seconde clayme made, to make the thirde clayme in the same maner and within the yere and the daye after the thirde clayme, to make an other clayme, and so forth, that is to saye, to make an other clayme within euery yere and day nexte after euery clayme made, durynge the lyfe of his aduersarie, and than at what tyme that his aduersary dieth ceased, his entre shall nat be taken away by no suche discent. And suche clayme made in suche maner is mooste commonly taken and called continuall clayme of hym that made the clayme. But yet in case aforesayd where his aduersarie dyeth within the yere and the daye nexte after the fyfste clayme

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claime, this is in the lawe a continuall claime: **Cap. 7.**  
 in so muche that his aduersarie dyeth within  
 the yere and the daye after the same claime,  
 for it is no nede for hym that made the claime  
 to make any other claime, but at that tyme  
 that he wylle within the same yere and the  
 daye. &c. And yf his aduersarie be dysseised  
 within the yere and the day after the claime,  
 and the dysseisour dyeth therof seised with  
 in the yere and the day. &c. This dysing seised  
 shall nat hurte hym that made the claime, but  
 that he may entre. &c. For who so ever he bee,  
 that dyeth seised within the yere and the day  
 after suche claime, that shall nat hurte hym,  
 that made the claime, but that he may entre  
 thoughe there were manye dysinges seised,  
 and many dyscentes within the yere and the  
 daye. &c. Nota hoc.

¶ ALSO yf a manne be disseised, and the disseisour dyeth seised within the yere and the day nexte after the disseisyn made, wherby the tenementes descende to his heyre, in this case the entre of the disseisee is taken away, for the yere and the day that shuld helpe the disseisee in suche case. &c. shal nat be taken from the tyme of the title of entre growen unto hym, but onely frome the tyme of the clayme by hym made in time aforesayde.

And for that cause it shall be good for suche  
a disseise, for to make his clayme. &c. in as  
short tyme as he may after the disseisyn. &c.

**A L S O** yf suche a dyllaysour occuppe  
the lande by fortye yeres or mo, without any  
claims



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clayme made by the disseisee. &c. and the disseisee by lyttell space befoze the deathe of the disseisour, make a clayme in the fourme afoze sayde, if it so fortune that within a yere and a daye after suche clayme the disseisoure dye seized. &c. thanne the entre of the disseisee is congeable. And fo: this it shall bee good for suche a man that made no clayme that hath title to entre. &c. whan he hereth that his aduersarie lyeth sycke, to make his clayme. &c. as it is sayde in the cases put befoze, where a man hath title to enter because of a disseisyn &c. The same lawe is, where a manne hath ryght to enter because of any other title. &c.

**A L S O** in this said presidentes may ye know my chyld two thynges. One is where a man hath title to enter vppon a tenaunt in taylor, if he make any such clayme to the land &c. Than is the state of the taylor defeted, for that clayme is as an entre made by hym, and is of the same effect in the lawe, as if he were vppon the same tenementes, and had entred in the same tenementes as is aforesayd. And than whan the tenaunt in taylor immediately after suche clayme continueth his occupation in the same tenementes, this is a disseisyn made of the same tenementes vnto hym that made the clayme. Et sic per consequens, the tenaunt than hath fee symple. &c.

**T**he seconde thyng is that as ofte as he that hath right to enter, maketh such claime, and this nat withstandynge his aduersary continueth his occupation, as ofte as the aduersary

aduersary doeth wrong and dysseisin to him that made the clayme. And for this cause so often may he that made the same clayme, for every suche wronge and dysseisin made vnto hym, haue a wytte of trespass, Quare clausum suum fregit. &c. and shall recouer his damages. &c. and he may haue a wytte vppon the statute of kynge Rycharde the seconde, made the fyste yere of his reigne, supposyng by his wytte, that his aduersarie hath entred into the landes or tenementes of hym that made the clayme, where his entree was nat goods nor gyuen to hym by the lawe. &c. and by such the action he shall recouer hys damages. &c. And yf the case be suche, that the aduersary occupie the tenementes with force and armes, or with a multitude of people at the tyme of suche clayme. &c. Than after suche clayme he that made the claim, may for every such tyme haue a wytte of forcible entre, vpon the statute of Anno. 8. H. 6. cap. 6. and recouer hys treble damages &c.

**ALSO** here is to se, if the seruant of a man that hath title of entre, may by the commandement of his mayster, make continuall clayme for his mayster in his name, and it semeth that in some cases he maye do this, for yf he by his commandement come to any parcell of the lande, and there maketh claim &c. in the name of his mayster, this claym is good ynough for his mayster, for this that he hath doen al that that it behoued his master to do in suche case, &c.

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**A**L S O yf a mayster saye vnto his seru-  
uaunt, that he dare nat go vnto the lande, nor  
to any parcelle of the lande, for to make his  
clayme. &c. and dare not appoche moze nygh  
vnto the sayd lande, saue to suche a place cal-  
lyd Dale, and commaundeth his seruuaunt to  
goe to the same place of Dale, and there to  
make a clayme for hym. &c. if the seruuaunt so  
doe. &c. this seemethe as good clayme for his  
mayster, as yf he had been there in his own  
persone, for this that the seruuaunt dyd al that  
his maister durste do, and ought to do by the  
lawe in suche case.

**A**lso if a man be so sycke or soo lame that  
he may nat in no maner come to the land, nor  
to any parcell of the same, or yf there be a re-  
cluse that may nat bycause of his order goe  
out of his house. &c. yf suche a maner persone  
command his seruuaunt to go and make claime  
for hym. &c. and the seruuaunt dare nat go vn-  
to the lande, nor to anye parcelle thereof for  
doubte of beatynge, maymyng, or death. &c.  
and for that cause suche seruuaunt commeth as  
nygh vnto the lande as he dare for such dyete  
and maketh suche clayme. &c. for his maister,  
it semeth that suche clayme for his mayster,  
is good and stronge ynough in the lawe, for  
els his mayster shuld be in to great mischefe,  
for it may well be, that suche a person that is  
sycke, or lame, or recluse, can nat fynde any  
seruuaunt that dare go vnto the lande, nor to  
any parcell of it, to make the clayme for hym  
&c. But yf the mayster of suche a seruuaunte  
be

be in good health, and may and dare well goe Cap. 7<sup>d</sup>  
 to the tenementes, or to parcell of it, to make  
 his clayme for him. .xc. if suche a maister com-  
 maunde his seruant to go to some parcelle of  
 the lande, and make clayme for hym. .xc. And  
 whan the seruant is in goyng to do the com-  
 maundement of his mayster, he hereth by the  
 way suche thynges, that he dare nat go to a-  
 ny parcell of the lande for to make any clayme  
 for his mayster, and for that cause he goethe  
 as nygh vnto the lande as he dare, for doubt  
 of death, and there he maketh clayme for his  
 mayster, and in the name of hys mayster. .xc.  
 it semeth that the doubt in the lawe in suche  
 case shalbe, yf suche clayme auaylethe to his  
 mayster or nat, for this that the seruaunt did  
 nat all this that hys mayster at the tyme of  
 commandement durst haue doen.

¶ Also some haue said, that where a man is Concerning  
 in prison, and is disseised, and the disseysour this mat-  
 dyeth seysed, durynge the tyme that the dys- ter seke the  
 seisee is in prison, by whiche the tenementes opinions of  
 dyscende to the heyre of the dysseysoure, they the Justy-  
 haue sayde that this shall nat hurte the dys- ces. Pa. 6.  
 seisee that is in prison. .xc. but that he may wel p. 6.  
 enter, nat withstandynge suche dyscende, for  
 this that he may nat make continuall clayme  
 whan he was in prison. And alsoo yf suche a  
 one that is in prison be outlawed in an ac-  
 tion of dette or trespass, or in appeale of rob-  
 berie. .xc. he shall reuerte suche outlawrye by  
 wytte of erroure. .xc. bycause he was in pris-  
 son at the tyme of outlawrye agaynste hym



# LITTEL. LIB. III.

Cap. 7. pronounced. &c.

**A**lso if a recouerie be hadde by defaulte agaynste suche a one that is in pryson, he shal auoyde the iudgement by a wytte of errour, for this that he was in pryson at the tyme of suche defaute made. &c. And bycause that suche matters of recoorde shal nat hurte theym that be in pryson, but that it shal be reuerled &c. A multo fortiori, it semeth that a matter in dede that is to saye, suche discent had whā he was in pryson, shal nat hurt him. &c. specially for this that he may nat go out of pryson to make continuall claime. &c.

**A**ND in the same maner hit seemeth to them, where a manne is out of the realme in the kynges seruyce, for busynesse of the realme, and yf suche a man bee dysseised whan he is in the seruyce of the kyng, and the dysseysour dieth scased, suche dyscente shal nat hurte the disseisee, but for this that he myght nat make continuall clayme. &c. it semeth vn to theym that whan he commeth againe into Englande, he maye enter vpon the heyre of the dysseysour. &c. For suche a manne shal reuerse an outlawrie that is pronoūced agaynst hym, durynge the time that he is in seruyce. &c. Ergo a multo forciori, he shal haue ayde by the law in the other case. &c.

**A**L S O other haue sayde, that yf a man be out of the realme, though he be nat in the kynges seruyce, yf suche a man beinge out of the realme, be disseised of landes or tenementes within the realme, and the dysseysour dis  
seised

seised. &c. the disseisee being out of the realme, **Cap. 7.**  
it seemed vnto them, that whan the disseisee  
commeth into the realme, that he maye well  
enter vpon the heire of the disseisour. &c. this  
seemeth vnto them for two causes.

**T**he one is, that he that is out of the realme,  
may nat haue knowlage of the disseisyn made  
vnto hym by vnderstandynge of the lawe, no  
more than that a thyng done oute of the res  
alme may be tried within the same realme by  
the othe of twelue men. &c. and to compelle  
suche a man by the lawe, to make continuall  
clayme, whiche by the vnderstandynge of the  
lawe, canne haue no knowlage or cognys  
saunce of suche dysseisyn made or done, this  
shall be inconuenient, and namcly whan su  
che a disseisyn is done vnto hym, whanne he  
was out of the realme, and also the dysynge  
seised was done, whan he was out of the res  
alme. For in suche case he maye nat by possi  
bilitie after the common presumption make  
no contynuall clayme. But otherwise it shall  
be yf the disseisee were within the realme at  
the tyme of the disseisyn, or at the tyme of  
the dysynge seised of the disseisour. **§. 6. M. 7.**

**I**n nother matier they alledge for a pfofe,  
whan the statute of king Edward the. 3. the.  
34. yere of his reigne was made, by whiche  
estatute non clayme is out. &c. the lawe was  
suche, that yf a fyne were leuped of certayne  
landes or tenementes, if any that was a stran  
ger to the fyne had right to haue and to recq  
uiser the same landes or tenementes, if he came



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A disseisin  
tie,

nat and made his claime to it within a yere  
and a daye next after the fyne leuied, he shall  
be barred for euer, *Quia dicebatur finis, finē  
litibus imponebat.* And that the lawe was  
suche, it is proued by the statute of westmy-  
ster the seconde, *De donis conditionalibus,*  
where it speaketh, that if the fyne be leuied  
of tenementes geuen in the taylor. *sc. Quod  
finis ipse iure sit nullus, nec habeant heredes  
huiusmodi, aut illi ad quos spectat reuercio,  
licet fuerint plene etatis, in Anglia, et extra  
prisonam, necesse apponere clameum suum.*  
So it is proued, that if a stranger that hath  
right vnto the tenementes, if he were oute of  
the realme at the tyme of the fyne leuied. *sc.*  
shall haue no damage, though he that he made  
not his claime. *sc.* though that such fyne was  
matier of recoorde: By greater reason it se-  
meth vnto them, that a disseisin and a disceit,  
that is mattier in dede, shall nat so greue him  
that was disseised whan he was oute of the  
realme at the tyme of the disseisin, and also  
at the tyme that the disseisour dyed seised. *sc.*  
but that he may well enter, nat withstanding  
suche discente.

Also enquire if a manne be disseised, and  
he arrayne assise agaynste the disseisour, and  
the recognitours of the assise chaunte for the  
playntife, and the Justices of the assise wyl  
be aduysed of their iudgement vntill the next  
assise. *sc.* and in the mean season the disseisour  
dyeth seised. *sc.* yf the sayd suite of the assise  
shalbe taken in lawe, for the sayde dysseisee a  
cont-

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continuall clayme, in so muche that no default was vnto hym. &c. Cap. 7.

**A L S O** enquire if an abbot of a monasterie dye, and durynge the tyme of vacacion a man wrongefully entreth in certayne parcel of lande of the monasterie claymyng the land vnto hym and his heires, & of that estate dyeth scyced, and the lande descendeth vnto his heire, and after that an abbot is chosen, and made abbot of the same monasterie, a question is, yf the abbot may entre vpon the heire or nat. And it semeth to some, that the abbote may well enter in this case, for this that the couente in tyme of vacacion were not personable to make continuall claime, for no more than they be personable to sewe an action, no more be they personable to make continual claime, for the couent is but a dead body withoute head, for in tyme of vacacion a grant made vnto them or by them is void, and in this case the abbote maie nat haue a wytte of entre vppon disseisyn agaynst the heire, for this that he was neuer disseised.

And if the abbote may nat enter in this case, than he shalbe put vnto his wytte of ryght, the whyche shall be harde for the howse, wherby it semeth to theym, that the abbote may well enter. &c.

Quere de dubiis, legem bene discere si vis.  
Querere dat sapere, que sunt legitima uere.

**R**elcasses.

Cap. viii.

**A** b

**R**e



## LITTEL. LIB. III.

**Cap. 8.**  
**Releases of**  
**all ryght.**

**R**eleases be in dyuers maners, that is to say, releases of all right that a man hath in landes or tenementes, and releases of actions reals and personals, and of other thynges. Releases of all the ryght that a man hath in landes or tenementes. &c. is commonly made in suche forme or to suche effecte. Nouerint vniuersi per presentes me A. de B. remisisse, relaxasse, et omnino de me & hered meis quiet clamasse. Vel sic: pro me & heredibus meis quiet clamasse C. de D. totū ius titulum & clameum quē habui habeo vel quouismodo in futur. habere potero de & in vno me. cum partineñ in F. &c.

**A**ND it is to vnderstande, that these wordes remisisse & quiet clamasse, be of such effecte as these wordes relaxasse. &c. and also these wordes, whiche be commonly putte in suche dedes of releases. &c. that is to vnderstand, Quē quouismodo in futurum habere potero, be as wordes voyde in the lawe, for no ryght passeth by a release, but the ryght that the releffour hath at the tyme of his release made. For if there be father and sonne, and the father be disseised, and the sonne. ly- uynge his father releaseth by his dede to the dyssessor all the ryght that he hath, or maye haue in the same tenementes without clause of warrantise. &c. and after the father dyeth, the sonne maye laufully enter vppon the possession of the disseisor, for this that he had no ryght in the lande whan he released, that is to saye in the lyfe of his father, but the  
rights

ryght descended vnto hym by dyscente, after the release made by the deth of his father &c. Cap. 8.

**A**lso in a release of al the right that a man hath in certayne landes, &c. it behoueth vnto hym, to whome the release is made in suche case, that he haue a freholde in the landes in dede, or in the lawe at the tyme of the release made &c. for in euery case where he, to whom the release is made, hath a freeholde in dede or in lawe, at the tyme of the release made &c. than the release is good. Franktenement in the lawe is, as if a man haue disseised an other, and thereof dyeth seised, by the whiche the tenementes descend vnto his sonne, howe be it that his sonne enter nat in the tenementes, yet he hath a franktenement in the lawe, whiche by force of dyscente is throwen vpon hym, and therefore the release made to hym, so beyng seised of franktenement in the lawe is good ynoughe. And yf he take a wyfe so beyng seised in the lawe, howe be it that he neuer enter in dede, his wyfe shall haue ther of her dower.

**A**lso in suche case of releases of al right, howe bee it that he to whome the release is made, ne hath any thing in the franktenement neyther in dede nor in lawe, yet the release is good inough, As yf the disseysour haue lette lande, that he had by disseisin to an other for terme of his lyfe, sauyng the reuercyon to hym, if the disseise or his heires release vnto the disseysour all the righte. &c. that release is good, for this that he to whome the release

is



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is made, had in hym a reuercion at the tyme of the release made .

**I**n the same maner it is, if a lease be made to a manne for terme of lyfe, the remaynder vnto an nother for terme of an notheres lyfe, the remainder vnto the thyrde in the taylle, the remaynder vnto the fourth in fee, yf a straunger that hath ryght vnto the lande, release al his ryght vnto any of them in the remaynder, suche release is good, for this that euery of theym ha the a remaynder vested in hym selfe, yet if the tenaunt for terme of lyfe be disseised, and after he that hath right, the possession beyng in the dysseysour, releaseth vnto one of theym, to whome the remaynder was made, all his ryghte. .i.c. that release is voyde, for that that he ne had in hym no remaynder in dede, at the tyme of the release made. Et nota that euery release made to him that hath a reuercion or a remaynder in dede, shall serue and helpe him that hath the frank tenement, as wel as him to whom the release is made, yf the tenaunte haue the release in his hande .i.c.

**I**n the same maner it is, where a release is made to a tenaunte for terme of lyfe, or to a tenaunte in the taylle, this shall enure vnto theym in the reuercion, or to theym in the remaynder, as wel as to the tenaunt of franke tenement, and shall haue as good aduantage of that, yf that they may shewe it .

**A**lso if there be lord and tenaunt, and the tenant is disseised, and the lord releaseth to the

the disseisee all the righte that he hath in the Cap. 8.  
 seignorie, or in the lande, this release is good  
 and the seignorie is extinguisht. And this is be-  
 cause of the priuetic that is betwene the lord  
 and the disseisee, for if the goodes of the dys-  
 seise be taken, and of them the disseisee sueth  
 a Replegiare agaynst the lord, he shall com-  
 pell the lord to auowe vpon hym, and yf he  
 wyl auowe vpon the disseysour, than vppon  
 the matter shewed, the auourie shall be aba-  
 ted, for the disseisee is tenant to hym in right  
 and in lawe.

**A L S O** yf lande be geuen to a man in  
 the taylor, reseruyng vnto the donour and  
 his heyres a certayne rent, if the donee be dis-  
 seised, and after the donour releaseth to the  
 donee and to his heyres all the ryghte that he  
 hath in the land, and after the donee entreteth  
 into the land vpon the disseysour, in this case  
 the rent is gone, for this that the dysseisee at  
 the tyme of the release made was ternaunte in  
 ryght and in lawe vnto the donour, and the  
 auowrie of fine force ought to be made vpon  
 hym by the donour for the rent behynd .*et.*

But yet nothyng of the ryghte of the lande  
 that is to say, of the ryghte of the reuercion  
 shall passe by suche release, for this that the  
 donee, to whome the release was made, than  
 had nothyng in the lande, but onely a ryght,  
 and so the ryght of the land ne may nat passe  
 by suche release to the donee.

**I N** the same maner it is if a lease be made  
 to one for terme of lyfe, reseruyng to the les-  
 seur



## Cap. 3.

four and to his heyres certayne rente, yf the lessee be disseised, and after the lessour releaseth to the lessee and to his heyres al the right that he hath in the landes, and after the lessee entreteth, howe be it that in that case the rente is extincte, yet nothyng of the righte of the reuercion passeth .xc. Causa qua supra.

But if there be very lord and very ternaunt, and the ternaunt maketh a feoffement in fee, the whiche feoffee neuer became ternaunte to the lord. .xc. if the lord release to the feoffour all his ryghte. .xc. that release is in al wyse, for this that the feoffour hath no ryghte in the lande, and he is no ternaunt in ryghte to the lord, but onely ternaunt as for the auowrye to be made, and he shall neuer compelle the lord to auowe vppon hym. for the lord maye auowe vppon the feoffee, yf he wylle. otherwyse it is, where the verie ternaunte is disseised, as in the case aforesayde, for yf the verie ternaunte that is disseised holdethe of the lord by knyghtes seruyce, and dyethe, his heyres beyng within age, the lord shall haue and cease the warde of the heyre.

And soo he shall nat haue the warde of the feoffour that made the feoffement in fee. .xc. and so it is greatte dyuersitie betwene these two cases.

**A L S O** yf a man enfeoffe an other. .xc. in his lande vppon truste, and to the entente that he shall performe his laste wyl, and the feoffour occupieth the same lande at the wyl of his feoffees, and after the feoffees release  
by

by there dede, vnto the feoffour all the ryght  
 1c. This hath ben in question, if such releas  
 be good or not. And some haue sayd, that su:  
 che release is vborde, for this that no priuie  
 was betwene the feoffees and their feoffour,  
 in so muche that no lease was made after su:  
 che feoffement by the feoffees, to their feoffor  
 to holde at their wyll. 1c. And some haue sayd  
 the contrarie, and that for two causes. One  
 is that whan suche feoffement is made vpon  
 confidence to performe the wyll of the feof:  
 four, that it shall be vnderstand by the lawe,  
 that the feoffour by and by ought to occupie  
 the lande, at the wyll of his feoffees, and so  
 it is a maner of priuie betwene them, as if a  
 man make a feoffement to other personnes,  
 and they incontinent vppon the feoffemente  
 wyll and graunte that the feoffoure shall oc:  
 cupie the lande at theyr wyll. 1c.

¶ An nother cause they alledge, that yf su:  
 che lande be worth, xl. s. by yere. 1c. Than su:  
 che a feoffour shall be sworn in assises, and  
 in other enquestes in ples reals, and also in  
 ples personels, of what great summes so e:  
 uer that the plaintifes wyll declare. 1c. and  
 this is by the comon lawe of the lande. Ergo  
 this is for a great cause, and the cause is that  
 the lawe wyll, that suche feoffours and their  
 heires oughte to occupie. 1c. and to take and  
 occupie and enioy all maner profytes, issues,  
 and reuenues. 1c. as thoughe the tenementes  
 were their own without interrupcion of the  
 feoffees, nat withstanding suche feoffement.

Ergo

Cap. 8.



**Cap. 8.** Ergo the same law geueth a p<sup>r</sup>iuile betwene  
 suche feoffours, and their feoffees vpon con-  
 fyden<sup>ce</sup>. *ic.* For whiche causes they haue said  
 It is hol- den in. 15. that suche releases made by such feoffees v-  
 7. fo. 2. pon confyden<sup>ce</sup> to the feoffour, or to his hel-  
 that the res. *ic.* so occupynge the lande, shall be good  
 feoffee shall ynough. *ic.* And this is the better opinion, as  
 haue an ac it seemeth. *ic.* Quere, for this seemeth no lawe  
 cion of tre- at this daye.

**spas apent** **A L S O** releases after the matier in dede  
 hym that sommetyme haue theyr effecte by force, to en-  
 hath thuse large the estate of them, to whom the release  
 is made, as if I lette certayne lande to a man  
 for terme of yeres, by force wherof he is pos-  
 sessed, and after I releasse vnto hym all the  
 ryght that I haue in the lande, without more  
 wordes sette or putte in the dede, and deliuer  
 vnto hym the dede, than he hath estate but  
 for terme of his lyfe, and the cause is for this  
 that whan the reuercion or the remaynder is  
 in a man, the whiche wyll enlarge by his re-  
 lease the estate of the tenant. *ic.* he shall haue  
 no gretter estate but in the maner and forme:  
 as if such a releasour were seased in fee, and  
 wyll by his dede make estate to one in a cer-  
 tayne forme. *ic.* and deliuer vnto hym seapn  
 by force of the same dede, if in suche dede of  
 feoffement, there be no worde of inheritance  
*ic.* than he hath estate but for terme of lyfe  
*ic.* And so it is in suche releases made by hym  
 in the reuercion, or in the remaynder. For yf  
 I let lande to a man for terme of his life, and  
 after I releasse to hym all my ryghte without  
 more

more saynge in the release, his estate is nat enlarged. But if I release vnto hym, and to his heires of his bodye engendred, than he hath fee taile, and yf I release vnto hym and to his heires, than he hath fee synple. And so in all releases that go to the enlargement of the estate of any man, it behoueth in such case to specifye in the dede of the release, what estate he to whom the release is made, shall haue. &c.

**A**N D some dedes of releffes shall enure to set and put the right of hym that maketh the release to hym, to whome the Release is made. As a man is disseised, and he releffeth vnto the disseisour all the ryght that he hath, in this case the disseisour hath his ryghte, so that where his estate before was wronge, nowe by the release it is lawfull and ryght. But here note well, that whan a man is seized in fee simple of any landes or tenementes, and an other wyl release vnto hym all the ryght that he hath in the same tenementes, it needeth nat to speake of the heires of hym, to whome the release is made, for this that he hadde fee synple at the tyme of the release made, for if the relese were made to him and to his heires for one daye, or for one houre, this shall be as stronge vnto hym in the lawe as if he had relefed to hym and to his heires, for whan his ryght was goone from hym at one tyme by his releasse without any condycion. &c. to hym that had fee synple, it is gone for ever. But where a man hath a reuercion



# LITTEL. LIB. III.

Cap. 8.

or a remaynder in fee simple at the tyme of the release made, there yf he wille release to the tenant for terme of yeres, or for terme of lyfe, or to the tenant in the taylor, it behoueth to determyne the estate that he to whome the relese is made shall haue, by force of the same release. For this that suche release goeth to enlarge the estate. &c. of hym, to whom the release is made. But otherwyle it is, where a man hath but a right vnto the land, and hath nothyng in the reuercion, nor in the remaynder in dede. For if suche a man release all his ryght to one that is tenant of the franktenement, there all his right is gone, though that no mention be made of the heires of hym, to whom the release is made. For if I let lades or tenentes to a man for terme of his lyfe, if I after release vnto him for to enlarge his estate it behoueth that I release vnto him & to his heires of his body engendred, or to hym and to his heires, or by suche wordes to haue and to holde to hym and to his heires males of his body begotten, or by suche lyke wordes &c. or otherwyle, he hath no gretter estate than he had before. But yf my tenant for terme of lyfe lette the same lande out to an other for terme of the lyfe of his lessee, the remaynder vnto an other in fee, now if I release vnto hym to whom my tennant letted for terme of lyfe, I shall be barred for ever, though that noo mencion be made of his heires, for this that at the tyme of the release made, I had no reuercion, but onely a ryghte to haue the reuer-

200 xof

reuercion. For by such a lease with a remain  
der over that my tenaunt made, in this case  
my reuercion is discontinued. &c. and suche a  
release shall enure vnto him in the remainder  
to haue aduantage of this; as wel as to the te  
nant for terme of lyfe, for to that entente the  
tenant for terme of life, & he in the remainder  
be as one tenat in the law, and be as if one ten  
nant were sole seised in his demesne as of fee  
at the tyme of such releas made vnto him. &c.

**ALSO** yf a man be disseised by two, yf  
he release vnto one of them, he shall hold his  
felowe out of the lande, and by suche release  
he shall haue sole possession, and estate in the  
lande. But yf one disseisour enfeoffe two in  
fee, and the disseisee relese to one of the feof  
ees, this shall enure to both the said feoffes.  
And the cause of the diuersitie betwene these  
two cases is pregnant inough.

**Also** if I be disseised, and my disseisour is  
disseised, yf I release to the disseisour of my  
disseisour, I shall neuer haue assise nor enter  
vpon his disseisour, for this that his disseisor  
hath my right by my release &c.

**And** so it semeth in this case, that yf there  
were twenty disseisors eche after other, and  
I release to the laste disseisour, he shall barre  
all the other of theyr action and their titles.  
And the cause is as it semeth, for this that in  
many cases whan a man hath a lawfull title  
to enter, though he enter nat. &c. he shall defete  
all meane titles by his release. &c. But this is  
nat in every case, as shalbe saide afterward.



L I T T L E . L I B . I I I .

Cap. 7.

Also yf

**A**lso yf my dysseisour letteth the tenementes, wherof he disseisid me, to a man for term of lyfe; and after the tenant for terme of lyfe alieneth in fee, and I relese to the alienee. &c. than my disseisour maye nat enter, causa qua supra, though that at one tyme the alienacio was to his disheritaunce. &c.

**A**lso if a man be disseised, the whiche hath a sonne within age, and dieth, and beinge the sonne within age the disseisour dieth seased, and the lande descendeth to his heyre, and a straunger abateth, and after the sonne of the disseisee, whan he commeth vnto full age releaseth all his ryghte. &c. to the abatoure. In this case the heyre of the dysseysoure shall be barred of his assyle of moxdancester against the abatour, for this that the abatour hath the ryght of the sonne of the disseisee, by his relese, and the entre of the sonne was laful &c. for this that he was within age at the tyme of the discent. &c.

**B**ut yf a man be disseised, and the dysseisour maketh a feoffement vppon condicion, that is to say, to yeld vnto hym certayn rent, and for defaute of paiemente, a reentre. &c. yf the disseisee releaseth to the feoffee vpon condicion, yet mendeth this nat the estate of the feoffee vpon condicion, for nat withstanding such release, yet his estate abideth vpon condicion, as it was before.

**I**n the same maner it is, where a man is disseised of certayne lande, and the disseisour graunteth a rent charge out of the same land though

Cum hoc  
concordat  
opinio om  
nium iusti  
ciar. P. 9.  
H. 7.

though that after the disseisee releaseth vnto the disseisour. &c. yet the rent charge abydeth in his force. And the cause is in these two cases, that a man shal haue none advantage by suche release, that shal be agaynst his owne propre acceptaunce, and agaynst his owne graunt. And though that some haue sayd, as is aforesayd, that where the entre of a man is congeable vpon a tenaunt, yf he release to the same tenaunte, that this release auayleth vnto the tenant, so as yf he had entred vpon the tenant, and after enfeofed hym. &c. this is nat true in every case, for in the fyrste case of these two foresayd cases, if the disseisee in fee enter vpon the lessee vpon condicion, and after enfeofeth hym, than the condicion is all put asyde and voyde. And so in the second case yf the disseisee entre, and enfeofee hym that graunted the rent charge, thanne is the rent charge adnulled and auoyded. But it is nat auoyded by any such release without enfeofment made. &c.

¶ Also yf a man be disseised by a child within age, the whiche alpeneth in fee, and the alpenee dieth seised, and his heire entreth, beynge the alpenour within age. Nowe it is in the election of the disseisour to haue a writte of Dum fuit infra etatem, or a writ of right agaynst the heire of the alienee, and whiche writte of the two so euer he taketh, of them he ought to recour by the lawe. And also he maye enter into the lande without any recovery by action, and in this case the entre of



**B. of Knowles**  
**LITTEL. LIB. III.**

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the disseisee is taken awaye. But in this case  
if the disseisee releaseth his right to the heyre of  
the alienee, and after the dysseisour byngeth  
a wytte of righte agaynste the heyre of the a-  
lienee, and he ioyne the myse vpon the clere  
right. &c. the graund assise ought by the lawe  
to fynd that the tenant hath moze clere ryghte  
&c. than hath the dysseisour, for this that the  
tenante hath the right of the disseisee, by his  
release, which is moze ancient and moze clere  
right, than the right of the disseisoure, for by  
suche release all the ryght of the disseisee pas-  
seth vnto the ternaunte, and is in the ternaunt.  
And to this some haue said, that in such case  
where a man hath right to landes or tenemen-  
tes, but his entre is nat lafulle, yf he release  
vnto the ternaunt all the ryght. &c. than suche  
release shal enure by way of extingwishment.  
As vnto this it maye bee sayde, that this is  
trowthe vnto hym that releaseth, for by his  
release he hath dysmyssed hym selfe cleane of  
all his ryghte, as to his persone. But yet the  
right that he had may wel passe and go vnto  
the ternaunt by his release, for hit shoulde bee  
inconuenient, that suche an auncyent ryghte  
shoulde be extind all vtterly by his release. &c.  
for it is commonly sayde, that right mai nat  
dye. But a release that goeth by the way of  
extingwishment agaynste all personnes, is  
where he, to whome the release is made, may  
nat haue this that vnto hym is released: as if  
there be lord and tenant, and the lord releas-  
seth vnto the ternaunte all the righte that he  
hath

A releas in  
brynge by  
way of ex-  
tingwishment.

hath in the lordeshipp, or all the ryghte that he hath in the lande. &c. suche a release gothe by way of extinguyshment agaynst all persons, for this that the tenant may not haue the seruyce of hym selfe.

**I**n the same maner it is of a release made to the tenant of the lande of a rente charge, or of a common pasture. &c. for this that the tenant may nat haue that, by way of taking it, that vnto hym is released. &c. So suche releases shall enure euermore by way of extinguishment agaynst all persons. &c.

Also to proue that the grande assise ought to passe for the tenant in the case aforesayde. I haue harde often in the lecture vppon the statute of westm the seconde cap. 3. that begynneth, In casu quando vir amiserit per defaultā tenementū quod fuit ius vxoris sue. &c. that is at the common lawe before the statute, if a lease were made to a man for terme of lyfe, the remaynder ouer in fee, and a strānger by a fapned action recouer agaynst the tenant for terme of lyfe by default, and after the tenant dieth, he in the remaynder had no remedye before the statute, for this that he had no possession of the lande. But if he in the remaynder had entred vppon the tenaunt for terme of lyfe, and disseised hym, and after the tenāt entreth vpon hym, and after the tenant for terme of lyfe leseth by such recouere had by default, & dieth, now he in the remainder may well haue a wyttē of ryght agaynst hym that recouered, for this that the myse

**Die**

Qual

John Warrington Esq  
Barber & Miller



# LITTEL. LIB. III.

Cap. 7.

The effecte  
of these  
wordes,  
modo &  
forma.

Shall be ioyned only vpon the clere ryght. &c.  
And yet in this case the lesin of him in the re-  
mainder was defeted by the entre of the tenat  
for terme of lyfe. But perauenture some wyl  
argue and saye, that he shall haue no wytt of  
ryght in this case, for this that whā the mise  
is ioyned, it is ioyued in suche a maner, that  
is to saye, if the tenant haue moze clere right  
to the land in the maner as he holdeth, than  
the demaundant hath in the maner as he de-  
maundeth. And for this that the lesin of the  
demaundant was defeted by the entre of the  
tenant for terme of lyfe, thanne he hath no  
ryght in the maner as he demaundeth. Vnto  
this it may be sayd, that these wordes Modo  
& forma prout. &c. in many cases be wordes  
of maner of pleadyng, and no wordes of  
substance, for if a man byng a wytt of en-  
tre, In casu prouiso, of alienacion made by  
the tenant in dower to his disinheritaunce,  
and pleadeth of the alienacion made in fee,  
and the tenant saithe, that he alvned not in  
the maner, as the demandant hath declared,  
and vpon this they be at issue, and it is found  
by verditte that the tenant aliened in the taile,  
or for terme of an others lyfe, the demandant  
shall recouer, and yet the alienacion was nat  
in the maner as the demaundaunt hath de-  
clared.

¶ ALSO if there be lozde and ternaunte,  
and the tenant holdeth of the lozde by fealtie  
onely, yf the lozde distrayne the ternaunte for  
rent, and the tenant byngeth a wytt of tres-  
pas,

was agaynst his lozde for his cattel so taken, and the lozde pleadeth that the ternaunt holdeth of hym by fealtie and certayne rent, and for the rent behynde he came and distrayned ec. and demaundeth iudgement of the wytte brought agaynst him, Quare vi & armis. &c. and the other saithe, that he holdeth nat of hym in the maner as he supposeth, and vpon this they be at an issue, and it is founde by verdyt, that he holdeth of him by fealtie tantum, in this case the wytte shal abate, and yet he helde not of the lozde in the maner, as the lozde had sayde, for the maner of the issue is, whether the ternaunt holdeth of hym or nat. For if he hold of hym, though that the lozde distrayne the tenant for other scrupces, that he ought nat to haue, yet suche wytte of trespass Quare vi & armis. &c. lieth nat agaynst the lozde, but shal abate.

Also in a wytte of trespass, of beatynge or of goodes taken, if the defendante pleade nothyng culpable in the maner, as the playntife supposeth, and it is founde that the defendante is culpable in an nother towne withyn the same myle, or at an other day than the playntife supposeth, yet he shal recouer. And in many other cases these wordes, that is to saye, in the maner as the demaundant or the playntife hath supposed, be no matier of substance of that issue, for in a wytte of right, where the myle is ioyned vpon the cleere ryghte, it is as muche to say, and to suche effecte, that is to witte, whether hath the

Or

more



# LITTEL. LIB. III.

Cap. 8.

more ryght the tenant oꝝ demaundant to the  
shyng so demaunded. &c.

**I**F A L S O if a man be disseised, and the dis-  
seisor dieth seised. &c. and his sonne and heire  
entreteth in by discent, and the disseisee entreteth  
vppon the heire of the disseisour, the whiche  
entre is a disseisin. &c. yf the heire bypunge as-  
sise, oꝝ a writte of entre in nature of assise,  
he shall recouer. But yf the heire bypunge a  
writte of right agaynst the disseisee, he shall  
be barred. For this that whan the graunde  
assise is sworne, their othe is vpon the clere  
ryght, & nat vppon the possession. &c. for if the  
heire of the disseisour had brought assise of  
nouell disseisin, oꝝ a writ of entre in nature of  
assise, and recouered agaynst the disseisee, and  
sued execucion: yet maye the disseisee haue a  
writ of entre in the p, agaynst hym, of the dis-  
seisin made vnto hym by his father, oꝝ he may  
haue agaynst the heire a writte of ryght. But  
yf the heire ought to recouer agaynst the dis-  
seisee, in the case aforesaid by a writ of right,  
than all his ryght shalbe clerely gone, for this  
that a finall iugement shuld be geuen agaynst  
hym, whiche shulde be agaynst reason, where  
the disseisee hath more clere ryght. &c.

**Finall iud-  
gement in  
a writte of  
ryghte.**

**A**N D knowe ye my sonne, that in a writ  
of ryghte after this that the foure knyghtes  
be chosen in the graunde assise, than there is  
no greater delay than in a writte of For-  
me Done after this that the parties be at an issue  
&c. and if the myse be ioynd vppon battayle,  
than there is lesse delay.

Also

**ALSO** a release of all the ryghte. &c. in Cap. 8.  
 Some case is good made vnto hym, that is  
 supposed tenant in the lawe, though he hath  
 nothyng in the tenementes, as in a Precipe  
 quod reddat, if the tenaunt aliene the lande,  
 hangynge the wytte, and after the deman-  
 dant releaseth to hym all his ryghte, that res-  
 lease is good, for this that he is supposed to  
 be tenant by the suite of the demandant, and  
 yet he hath nothyng in the lande at the tyme  
 of the release made.

**In** the same maner it is if in a Precipe qd  
 reddat, the tenant voucheth, and the vouch-  
 eth in the garrantie, yf after the deman-  
 dant release vnto the vouchee all his ryght,  
 &c. this is good ynoughe, for this that the  
 vouchee after this that he hath entered in  
 the garrantie, is tenaunte in lawe to the de-  
 mandant.

**Also** as to releases of adyons reals, and  
 adyons personals, it is so that some adyons  
 be myxt in the realtie, and in the personaltie,  
 as if an action of wast be sued against the te-  
 nant for term of life, this actiō is in the real-  
 tie, for this that the place wasted shalbe reco-  
 uered, and also it is in the personaltie, for this  
 that the treble damage shal be recovered for  
 the wonge and wast done by the tenant, & for  
 this in this action a release of adyons reals  
 is a good plee in barre, and so is a release of  
 adyons personals.

**In** the same maner it is of assyse of novel  
 disseisin, for this that it is myxt in the realtie  
 and

In quare  
 impedit a re-  
 lease of ac-  
 tions per-  
 sonals is a  
 good plee:  
 and so is a  
 release of ac-  
 tions reals,  
 by Mart,  
 whiche  
 was grante-  
 d Pa. 9.  
 B. 6.



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and in the personaltie. But yf suche assise be arraigned against the disseisour and the tenat, the disseisour may well pleade a release of actions personalles, for to barre the assise, for none maye pleade release of actions reals in assise but the tenant. &c.

**¶ A L S O** in suche actions reals that be boueth to be sued againste the tennant of the franke tenement, yf the tenant haue a release of actions reals of the demandant made vnto hym, before the wytte purchased, and he pleadeth it, this is a good plee for the demandant to saye, that he that pleadeth that plee had nothynge in the franke tenemente at the tyme of the release made, for than he had no cause to haue action real against hym.

**¶ A L S O** in suche case where a man maie enter in landes or tenementes, and also where he maie haue of this an action reall, whyche is gyuen vnto hym by the lawe, agaynste the tenant, yf in this case the demandant release to the tenant al maner actions reals, yet this taketh nat away the entre of the demandant, but the demandant may wel enter, nat withstandinge suche release, for this that nothynge is released but the action. &c.

**¶ In** the same maner it is of thynges personals. As yf a manne wrongfully take my goodes, yf I release vnto hym all actions personalles, yet I maye by the lawe take my goodes out of his possession.

**¶ A L S O** yf I haue cause to haue a writ of detinue of my goodes agaynste an other, though

though that I release vnto hym all actions Cap. 8.

personals, yet I may take my goodes out of his possession, for this that noo right of goodes is released to him but onely the action. &c.

**A L S O** yf a manne be dyssesed, and the disseisour maketh a feoffement vnto dyuerse persons vnto his vse, and the disseisour continually taketh the profytes. &c. and the disseisour releaseth vnto hym all actions reals, and after he sueth agaynst hym a wyttte of entre in nature of assyse, because of the statute, for this that he taketh the profytes. &c. Enquire howe the disseisour shal be holpen by the said release, for yf he wyl pleade the release generally, than the demandaunt may say, that he had nothynge in the franketencment, at the tyme of the release made, and yf he pleade the release specially, than it behoueth hym to knowe a disseisyn, and than may the demandant enter in the lande. &c. by his consance of the disseisyn. &c. but peraduenture by especial pleadyng he may be barred of the assise that he sueth. &c. though that the demandaunte may entre. &c.

An. II. H.  
6, ca. 3.

**A L S O** if a man sue appeale of felony of the deathe of his auncester agaynst an nother, though the appellat release vnto the defendant all maner actions reals and personals, this shall nat helpe the defendante, for this that this appeale is nat an action reall, in so muche that the appellat shall nat recouer any realtie in suche appele. For suche appeale is no action personall, In so muche that the wrong



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**Cap. 3.**

**The best  
release of  
actions.**

wronge was dooen vnto his auncestre, and nat vnto hym, but yf he release to the defendant all maner of actions, than it shall be a good barre in the appeale. And soo a manne may se, that a release of all maner of actions, is better than a release of all maner of actions reals and personals. &c.

**A L S O** in appeale of robbery, if the defendant wyl pleade a release of the appellat of al actions personals, this semeth no plee: for an action of appele, where the appellant shall haue iudgement of death. &c. is more high than an action personal, and is nat properlye saide an action personall: and therfore yf the defendant wyl pleade a release of the appellant, to barre him of the appele, it behoueth hym to haue a release of all maner of actions of appeale, as it semeth. &c. But in appeale of mayme a release of all maner of actions personalles, is a good plee in barre, for this that in suche an action he shall nat recouer but damages. &c.

**A L S O** yf a man be outlawed in an action personall by proses of the original, and byngeth a writte of erreure, yf he at whose suite he was outlawed, wyl pleade agaynst hym a release of all maner of actions personals, this semeth no plee, for by the sayd action he shall recouer nothyng in the personallie, but all onely to reuerse the outlawe, but a release of a writte of erreur shall bee a good plee. &c.

**A l s o** if a man recouer det or Damage, and  
he

he release to the defendant all maner of actions, yet he may lawfully sue execution by *Cap. 8.* *Capias ad satisfaciend'*, or by *elegit*, or by *Fieri facias*, for execution by such a writ may nat be sayd an action: but if after a yere and a daye the playntife wyl sue a *Scire facias*, to know if the defendant can any thyng say, for what cause the playntife shall nat haue execution &c. than it semeth a release of all actions shall be a good plee in barre, but som haue thought the contrary, in so muche that the writte of *Scire facias*, is a writ of recouerie, and is to haue execution. But yet in so muche that vpon the same writte the defendaunt may pleade dyuers matters after the iudgement geuen, to put hym fro execution, as outlawrie, and dyuers other matters. &c. therfore it may wel be sayd action. &c. and I trowe that in a *Scire facias*, out of a fyne, a release of all maner of actions is a good plee in barre, but where a manne recouereth dette or damage, and it is accorded betweene theym, that the playntife shall not seue execution, than it behouethe that the plaintife make a release to hym of all maner of actions.

¶ Also if a man release to an other al maner I releas of demaundes, this is the beste release, that he all demaundes to whome the release is made can haue, and des. most shall enure to his aduantage, for by such a release of all maner of demaundes, all maner of actions reals and personals, and actions of appeales be gone and extinct, and all maner of executions be gone and extyncte.

Quere



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Cap. 3.

Quere. For Fitz James chiefe Justyce of England helde the contrarie. D. 19. B. 8. for this that entre myght not properly bee called a demaunde.

**A**N D if a manne hath title to enter in anye landes or tenementes, by suche release his title is gone, and yf a manne hath rente service, or rent charge, or common of pasture &c. by suche release of all maner demaundes made to the ternaunt of the lande, wherof the serupce of the rent or the common is goynge out, or in what lande so euer the common be, the service and rente, and the comon is gone and extincte. &c.

**A**lso yf a man release to an other all maner quarels, or all controuersies or debates betwene them. &c. Enquire to what matter and to what effect suche wordes extend. &c.

**A**lso if a man be bounde by his dede to an nother in a certayne summe of money to pay at the feast of saynt Michell than next folowynge. &c. if the obligee before the said feast, release vnto the obligour all actions, he shall be barred of the duetie for euer, and yet he myghte haue none action at the tyme of the release made.

**B**ut if a man lette lande to an nother for terme of yeres, to yelde at the feast of saynt Michell nexte ensuyng. xl. s. and after the same feast he releaseth to the lessee all actions, yet after the same feast he shall haue an action of dette for the none payment of the xl. s. notwithstandinge the said release. Studye the cause

from com.

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understande

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cause of the diuersitie betwene these.ii.cases. Cap.8.

**A L S O** where a man wylle sue a wytte of ryghte, it behoueth that he pleade of the dysseisyn of hym, or of his auncesters, and also that the seaisyn was in tyme of the same kyng, as he pleadeth in his plee, for this is an auncient lawe vled, as it appereth by report of a certayn plee, in the heyre of Nottingham, in suche forme as insucth.

**¶** Syr John Barrey broughte a wytte of ryght agaynst Raynolde Illington, and demaunded certayne tenementes. &c. the myse was ioyned in the banke, and the original, and the proceste were sent befoze Justices erantes, where the parties came, and the.xii. knyghtes were swozne, without chalenge of the parties, for this that the election was made by assente of the parties of the foure knyghtes, and the othe was suche, that I Mall saye trouthe. &c. whether R. of A. haue moore ryghte to holde the tenementes, that John Barrey demaundeth agaynst hym by his wytte of ryghte, or John to haue the tenementes as he demaundeth, and for no thyng to lette to say the trouthe, as god me helpe. &c. without saynge to their estemyng, and suche othe Mall be made in attaynt, and in battayle, and in wagynge of lawe, for those wyttes sette every thyng vnto an ende.

But John Barrey pleaded of the dysseisyn of one Raufe his auncester in tyme of kyng Henry, and Raynolde vpon the myse ioyned tendered halfe a marke for the tyme, &c. And

**P**

**vpon**

*Handwritten note:*  
Mistakenly taken



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Cap. 9:

Upon this Herle Justyce sayd to the grand assise, after this that they were charged upon the clere ryghte : Good men, Raynolde gaue halfe a marke to the kyng to the intent, if ye fynde, that the auncestre of John was nat seised in tyme, that the demandant hath pleded, ye shal enquire no furder upon the right, and for this ye shall saye to vs, whether the auncestre of John, Raufe by name was seised in the tyme of kyng H. as he hath pleded or nat, & if ye fynd, that he was nat seised in the same tyme, ye shall enquire no more, and yf ye fynde, that he was seised, than enquire farther of the right. And after the grand assise came with their verdite, and sayde, that Raufe was nat seised in the tyme of kyng H. wherby it was awarded, that Raynolde shulde holde the tenementes agaynste the demandant, and to hym and to his heires quite of John Barrey and his heires to the remenant, and John in the mercy.

¶ A N D the cause why that I have shewid to the my sonne this plee, is for to proue the matter aforesayd, whiche is laide in the wytt of ryght. &c. for it semeth by this wytte, that if Raynolde hadde not tendered this halfe marke, for to enquire the tyme. &c. thanne the grande assise ought to have ben charged only of the clere right, and not of the possession. &c. And so that alwaies in a wytt of ryghte if the possession, wherof the demaundaunte pleadeth, be in the tyme of the kyng, as he hath pleaded : than the charge of the grande assise

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assise shall bee onely vppon the clere ryghte, though that the possession were againste the law, as hath ben said befoze in this chapyter. Cap. 9.

### Confirmation. Cap. 12.

**A** Dedde of confirmation is mooste common'ye made in suche forme, or to suche effecte. Nouerint vniuersi. &c. me A. de B. ratificasse, approbasse, & confirmasse C. de D. statum, et possess'ionem, quos habeo de & in vno mesuagio. &c. cum pertiñ in N. &c. And in some case a dedde of confirmation is good and vailable, wher in such case a dedde of release is nat good nor vailable.

**A**s if I let lande to a man for terme of his lyfe, the whiche letteth the same lande to another for terme of .xl. yeres, by force of the whiche he is possessed, yf I by my dedde confirm the state vnto the ternaunt for terme of yeres, and after the tenante for terme of lyfe dyeth, durynge the terme of .xl. yeres, I may nat after enter into the land, during the same terme, yet if I by my dedde of release haue released to the ternaunte for terme of yeres, in the life of the tenante for terme of lyfe, this release shall be voyde, for this that than noo priuie was betwene me and the ternaunt for terme of yeres, for a release is nat auaylable to the tenant for terme of yeres, but where a priuie is betwene him & him that releaseth.

**A**nd this is to be vnderstand, where a mā releaseth the right of a franketenement, or



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Inherytance. But in case where he that releas-  
sed, hath right but for a certayne terme, it is  
otherwise. As if the tenant for terme of yerres  
be put out by a stranger that maketh a lease  
to an nother for terme of yerres, yf he that  
was put out, releasse to the seconde ternaunte  
for terme of yerres, thys is a good releasse,  
Causa qua supra. and yet no p̄suptie is be-  
twene them.

**A L S O** yf I be dysseised, and the dissei-  
sour makethe a releasse to an nother for terme  
of yerres, yf I releasse to the termoure, this is  
vopde, but yf I confyrme his estate, this is  
good and effectual.

**A l s o** yf I be dysseisyd, and I confirm the  
state of the disseysour, than he hath a good  
and rightful estate in fee symple, though that  
in the dede of confyrmacioun noo mencyon is  
made of his heires, for this that he had fee  
symple at the tyme of the confyrmacioun. For  
in suche case yf the disseisee confyrme the state  
of the dysseysour, to haue and to hold to him  
and to his heires of his bodye ingendred, or  
to haue and to holde to hym for terme of hys  
lyfe, yet the disseysour hath fe symple and is  
leased in his demesne as of fee, for this that  
whan his estate was confirmed he hadde fee  
symple, and suche dede may nat chaunge his  
estate without entre made vpon him. &c.

**I n** the same maner it is, yf his estate bee  
confirmed for terme of a day, or for terme of  
an houre, he hath a good estate in fee symple,  
for this that his estate in fee symple was one  
con

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cōfirmed, Quia cōfirmare idē est quod firmū  
facere ¶ Also if my disseysour make a lease  
for terme of lyfe, the remaynd ouer in fee, yf  
I relese to the tenant for terme of lyfe, this  
shal enure to hym in the remainder. But if I  
confirm the state of the tenāt for tme of lyfe,  
yet after his decesse I may wel enter, for this  
that nothing is cōfirmed but the state of the te  
nant for term of life, so that after his decesse  
I may wel enter. But whā I haue relested al  
my ryght to the tenant for terme of lyfe, this  
shal inure to hym in the remaynder, or in the  
reuercion, for this that al my right is gone by  
suche releasse. But in this case if the disseisee  
confirme the estate and the titl, to hym in the  
remaynder, without any confirmation made  
to the tenant for terme of lyfe, the dysseisee  
may nat enter vpon the ternaunt for terme of  
lyfe: for this that the remainder is depending  
vppon the estate of the ternaunte for terme of  
lyfe, & yf his estate be defeted, the remainder  
shall bee defeted by the entree of the disseisee.  
And is agaynst resd, that he shal by his entree  
defete the remainder against the cōfirmaciō.  
¶ Also yf there be two dysseysours, and the  
dysseisee releaseth to one of theym, he shall  
holde his felowe out of the lande, but yf the  
disseisee confirme the state of thone, without  
moze speche in the dede, som say that he shall  
nat holde his felowe oute, but he shall holde  
ioyntly with hym, for this that nothyng was  
confyrmēd, but his estate that was ioynte.  
And for this som haue sayd, that if two ioin

¶ iii tenana



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**Cap. 9.** Tenantes bee, and the one confyrmeth the estate of the other, that he hath but a ioynte estate as he had befoze, but yf he haue suche wordes in the dede of confyrmacion, to haue and to hold to hym, & to his heyes al the tenementes, wherof mencion is made in the confyrmacion, thā he hath estate sole in the tenentes, and therfoze it is a good and a sure thyng in euery confyrmacion to haue these wordes, to haue and to holde the tenementes. &c. in fee or in fee taylor, or for terme of lyfe, or for terme of yeres after as the case or the matier is, for after the entent of some, if a manne leat land to another for terme of lyfe, and after he confyrmeth his estate that he hath in the same land to haue and to hold his estate to hym and his heyes, this confyrmacion as concernyng bys heires is voyde, for his heyes can nat haue his estate, whyche was but for terme of his lyfe, but if he confirm his estate by these wordes, to haue the same land to him and to his heires, this confyrmacion maketh fee symple in this case to hym in the lande, for this that those wordes, to haue and to hold &c. goth to the lande, and nat to the estate that he hathe, so note the diuersitie. &c.

**¶ A L S O** yf I let certayne lande to a woman sole, for terme of her lyfe, the which taketh a housbande, and after I confirme the estate to the husband and to the wife, to haue and to holde the land for terme of their two lyues, in this case the housband holdeth nat ioyntly with his wyfe, but holdeth the right  
of

of his wyfe for terme of his lyfe, but this Cap. 9.  
confirmation shall enure to the husbnde by

waye of remaynder for terme of his lyfe, yf  
he survyue his wyfe, but if I lette lande to a  
woman sole for terme of yeres, whiche ta-  
keth an husbnde, and after I confirme the  
estate to the husbnde, and the wyfe, to haue  
and to hold the lande for terme of bothe theyr  
lyues, in this case they haue ioynte estate in  
the franke tenement of the lande, for this  
that the wyfe had no franktenement before.

**¶ A L S O** if my disseisour graunte a rente  
charge out of the lande, wherof he disseised  
me, and I rehersynge the sayde graunt, doo  
confirm the same grant, and al that is com-  
prised within the sayde graunte, and after I  
entre vppon the dysseisour, inquire in this  
case yf the lande be dyscharged of the rente  
ye or no.

**¶ A L S O** if a persone of a church charge  
the glebe of his church by his dede, and after  
the patrone, and the ordinarie confirme the  
same graunt, and all that is comprised with-  
in the same graunt, than the same grant shall  
be in his strengthe after the pourpose of the  
same graunt, but in suche case it behoueth,  
that the patrone haue fee symple in the auou-  
son, for if he haue estate in the auouson but  
for terme of lyfe, or in taylor, than the graunte  
shall be good but durynge his lyfe, and the  
lyfe of the person that graunted it. &c.

**¶ A l s o** if a man lette lande for terme of lyfe,  
whiche tenaunt for terme of lyfe chargeth



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th: lande with a rent in fee, and he in the reuercion confyrmieth the same graunte, this charge is good inough and effectuell.

¶ Also yf there bee a perpetuall chaunterie, wherof the ordinarie hath nothyng to medle nor to do, there the patron of the chaunterie and the chapleyne of the same chaunterie may charge the chaunterie with a rent charge in perpetuall.

Dedi & cō  
cessi,

¶ Also in some case these verbes, dedi & cōcessi, haue the same effecte in substance, and shall enure to the same entent, as this verbe confirmaui. As yf I be disseised of a plough lande, and after I make suche a dede, &c. Sci: ant presentes. &c. quod dedi, to the disseisour the sayde plough lande. &c. and I deliuer all one y the dede to hym without liuere of scy: spon of the lande, this is a good confirmacion, and as stronge in the lawe, as if he had in the dede this verbe confirmaui. &c.

¶ Also if I lette lande to a manne for terme of yeres, by force of whiche he is possessed, and after I make to him a dede. &c. quod dedi & cōcessi. &c. the same land to haue for terme of his lyfe, and deliuer him his dede, than by and by he hath estate in the lande for terme of his lyfe, and yf I say in the dede to haue and to holde to hym and to his heires of his body engendred, thanne he hath estate in the taylor, and yf I saye in the dede, to haue and to holde to hym and to his heires, thanne he hath estate in fee simple, for this shall enure to hym by force of confirmacion, to enlarge  
his

his estate.

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¶ Also if a man be disseised, and the disseisor dieth seized, and his heire is in by descent and after the disseisor, and the heire of the disseisor make jointly a dede of feoffment to another in fee, and a livery of seisin upon this is made, as to the heire of the disseisor that enfeleth the dede, the tenementes passe by the same dede by way of feoffment, and as to the disseisor that enfeleth the same dede, this shall nat inure but by way of confirmation, but if the disseisor in this case bynge a writte of entry in the per & cui, againste the alienee of the heire of the disseisor, enquire howe he shall pleade that dede agaynst the demaundant, if by way of confirmation or nat. &c.

¶ AND knowe ye this my chyldre, that it is one of the most honourable, laudable, and profitable thynges in oure lawe, to have the science of welpleadinge in actions realles and personals, and for this I counsaile the in especiall, to sette thy courage and care to leerne that. &c.

The utilitie of pleadinge.

¶ Also if there be lord and tenant, and the lord confirmeth the estate that the tenant hath in the tenementes, yet the lord abydeth to the lord, as it was before.

¶ In the same maner it is, yf a man have a rent charge, or a common of pasture out of a certayn lande, and he confirme the state, that the tenant hath in the lande, yet abydeth to the confirmer the rent charge.

¶

In



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**I**n the same maner it is, yf a manne haue common of pasture in the lande of an other, if he confirme the state of the tenaunt of the lande, nothyng shall departe frome hym of his common, but this nat withstanding the common abideth to hym, as it was before.

But if there be lord and tenaunt, whyche tenaunt holdeth of his lord by seruice of fealtye, and .xx.s. of rent, if the lord by his dede confyrme the state of the tenaunt to holde by xii.d. or by a peny, or by an ob. in this case the tenant is discharged of al other seruices, and shall yelde nothyng to the lord, but that that is compysed within the same confirmation, yet yf the lord wyll by the dede of confirmation, that the tenaunt in this case oughte to yelde to hym an hauke, or a rose, yerely at such a feast. .xc. this confirmation is voyde, for this that he reserueth to hym a newe thyng that neuer was parcell of the seruices, before the confirmacio, and so the lord may abridge the seruices by suche Confirmation, but he may nat reserue to hym a newe seruice. .xc.

**A**lso yf there be lord, meane, and tenaunt, and the tenant is an abbote that holdeth of the meane by certayne seruyces yerelye, the whiche tenant hath no cause to haue acquittance agaynste his meane, for to bypge a writte of meane. .xc. In this case if the meane confyrme the state that the abbot hath in the lande, to haue and to holde the lande vnto hym, & to his successours in franke almoigne, or free almesse. .xc. in this case this confirmation

tion is good, and than the abbotte holdeth of the meane in franke Almoigne, and the cause is for this, that noo newe seruice is reserued, for all the seruices specially specified be extingte, and nothyng is reserued to the meane, but the abbot shall holde of hym the land, and that was befoze the confirmation: for he that holdeth in franke almoigne ought to do no bodily seruyce, so that by suche confirmation hit appereth, that the meane shall reserue vnto hym noo newe seruyce, but that the lande shall be holden of hym as hit was befoze, and in this case the abbotte shall haue a wytte of meane, yf he be dystained in hys default by force of the sayde confirmation, where percase he myghte nat haue suche a wytt befoze. &c.

¶ Also yf I be sealed of a byllayne, as of a byllayne in grosse, and an nother taketh hym oute of my possessyon, claymyng hym to bee his byllayne, where he had no righte to haue hym as his byllayne, and after I confyrme vnto him thestate that he hath in my villain, this confirmation semeth voyd, for this that none maye haue possession of a man, as of a byllayne in grosse, but that he hath ryght to haue hym as hys villaine in grosse. And thus in so muche that he, to whome the confirmation was made, was nat sealed of hym, as of his byllayn at the tyme of the confyrmacion, suche confirmation is voyde, but in this case yf suche wordes were in the dede, Sciatis me dedisse & concessisse tali, &c. talem villanum meum



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meum, this is good, but this shall endure by force and way of graunt, and nat by waye of confirmation. &c.

Also sometime these verbes, dedi & concessi, endure by way of extinguyshment of the thynge given or graunted. As yf a tenant holdeth of his lord by certayne rente, and the lord by his dede graunteth to the tenant, and to his heires the rent. &c. this shall endure to the tenant by waie of extinguyshment, for by this grant the rent is extyncte. &c.

**I**n the same maner it is, where one hath a rent charge oute of certayne lande, and he graunteth to the tenant of the lande the rent charge. &c. And the cause is for this, that his appereth by the wordes of the graunte, that the wyll of the donoure is, that the tenaunte shall haue the rent. &c. and in so muche that he might nat haue nor perceyue any rent oute of his owne lande, for this the dede shall be vnderstande and taken for the most aduantage and auayle of the tenaunt, that may bee, and that is by way of extinguyshment.

Also yf I lette lande to a man for terme of yeres, and after I confyrme his estate withoute mo wordes putte in the dede, by this he hath no gretter estate, but for terme of yeres as he had before, but yf I release to hym my right that I haue in the lande withoute mo wordes putte in the dede, he hath estate of franketenement, and so mayst thou my childe vnderstand diuers great diuersities betwene releases and confirmacions.

Also

**A**LSO yf I beyng within age, leat land Cap. 9. to one for terme of .xx. yerres, & after he granteth the lande to an other for terme of .x. yerres, so that grant is but parcell of his terme: in this case whan I am of fulle age, yf I release vnto the grauntee of my lessee. &c. this release is voyde, for this that there is no privity betwene hym and me. &c. But yf I confirme his estate, than thys confirmacion is good, but yf my lessee graunt all his estate to an nother, than my release made to the grauntee is good and effectuell.

**A**lso if a man graunt a rent charge out of his lande to an nother for terme of hys lyfe, and after I confyrme his estate in the sayde rent, to haue and to holde to hym in fee tail'e, or in fee simple, this confirmation is voyde, as to enlargynge of his estate, for this that he that confyrmed hadde no reuercion in the rent. But if a manne be leased in fee, of rent seruyce, or of rent charge, and he graunteth the rent to an nother for terme of lyfe, and the tenant atturneth, and after he confirmeth the estate of the grauntee in fee tail'e, or in fee simple, this confirmation is good, as to enlarge his estate, after the wordes of the dede of confirmation, for this that he that confyrmed the estate at the tyme of the confyrmacion, hadde the reuercion of the rente. &c. But in this case aforesayde, where a manne granteth a rent charge to an nother for terme of lyfe, if he wyl that the grantee shal haue estate in the tail'e, or in fee, it behoueth hym that



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that the dede of the grant of the rente charge for terme of lyfe be surrendred or cancelled, and than to make a newe dede of such a rent charge, to haue and to take to the grantee in the tail, or in fee. &c. *Ex paucis dictis plurima intendere potes.*

**Attournement.**

**Cap. 1.**

**A**ttournement is, if there be lord and tenant, and the lord wyl graunt by his dede the seruice of his tenant to an other for terme of yeres, or for terme of lyfe, or in tale, or in fee, hym behoueth that the tenant attourne to the grauntee in the lyfe of the grauntour, by force and vertue of the graunte, or otherwise the graunte is boyd, and attournement is none other thyng in effecte, but whan the tenant hath heard of the graunte made by his lord, that the same tenant by woorde agree to the saide graunte, as to saye to the grauntee, *I agree me to the graunt made to you, or I am well content of the graunt made to you. &c.* but the more common attournement is to say, *sy I attourne to you by force of the same graunt, or I beecome your tenant. &c.* or to delyuer vnto the grauntee a peny, or a halfpeny, or a fardynge, by way of attournement &c.

**A**lso yf the lord graunt the seruice of his tenant to a man, and after by a dede, bearing a later date, he granteth the same seruices to an other, and the tenant attourneth to the se-  
conde

*Attournement*

*10. 11.*

*10. 11.*

conde grauntee: nowe the seconde grauntee Cap. 10,  
hath the service, and thoughe that after the  
tenant woll attourne to the fyrste grauntee,  
this is clerely boorde. &c.

**A**lso if a man be seised of a maner, whiche  
maner is parcell in demesne, and parcell in  
seruyce, yf he wylle alien suche maner to an o-  
ther, it behoueth that by force of the aliena-  
cion, that all the tenauntes that holde of the  
alienour, as of his manour. &c. attourne to  
the alienee, or otherwyle the seruyces abyde  
continually in the alienour, except tenauntes  
at wylle, for it nedeth nat that the tenantes at  
wylle attourne vpon suche alienacion. &c. For  
this that the same landes and tenemētes that  
they holde at wylle, do passe to the alienee by  
force of suche alienacion.

**A**lso if there be lord and tenant, and the  
tenant letteth the lande to a man for terme of  
lyfe, the remainder to an other in fee, if the  
lord graunte the seruyces to the ternaunt for  
terme of lyfe in fee, in this case the ternaunte  
for terme of lyfe hath fee in the seruices, but  
seruices be put in suspence, durynge his lyfe,  
but his heires shal haue the seruices after his  
deathe, and in that case it nedeth nat any at-  
tournement, for by the acceptaunce of the  
dede of hym that ought to attourne, this is  
attournement in hym selfe. &c. but where the  
ternaunt hath as great and high estate in the  
tenementes, as the lord hath in the seignou-  
rie, in suche case if the lord graunte the ser-  
uyce vnto the ternaunt in fee, this enureth by  
way



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way of extinguyshment, causa patet.

**A L S O** if there be lord and tenant, and the tenant maketh a lease to one for terme of lyfe, or gyueth the lande in the tayle, sauyng the reuercion vnto hym. &c. if the lord in such case graunt the seignourie to an other, in this case it behoueth that he in the reuercion attourne to the grauntee, and nat to the tenant for terme of lyfe, or the tenant in the tayle, for this that he in the reuercion is tenant vnto the lord, and not the tenant for terme of lyfe, nor the tenant in the tayle.

**I**n the same maner it is, where there is lord, mesne, and tenant, and the lord woll grant the seruices of the mesne, though that he make no mencion of the mesne in his grant: yet it behoueth that the mesne attourne. &c. and nat the tenant per auale. &c. for this that the mesne is tenant to hym. &c. But otherwise it is, where certain land is charged of a rent charge, or a rent secke: for in such case if he that hath the rent charge grant it to an other, it behoueth that the tenant of the franketenement attourne to the grantee, for that that the franketenement is charged with the rent &c. & in the rent charge none auourie oughte to be made vpon any persone for the distresse taken. &c. but he shal auowe the takyn good and righteous, as in landes or tenementes so charged to a distresse &c.

**A L S O** if there be lord and tenant, and the tenant lette his tenementes to an other for terme of lyfe, the remainder to an other

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in fee, and afterward the lord granteth the  
 seruyces to an other. &c. and the tenant for  
 terme of life attourneth, this is good enough:  
 for this that the tenant for terme of lyfe, is  
 tenant in this case to the lord. &c. and he in  
 the remaynder can nat be called tenant to the  
 lord, as touchynge this intent, but after the  
 deathe of the tenant for terme of lyfe. Yet in  
 this case if he in the remaynder dye without  
 heire, the lord shall haue the remaynder by  
 way of eschete, for this that though the lord  
 in suche case shall bee consteyned to auowe  
 vpon the tenant for terme of lyfe. &c. yet all  
 the hole tenement, as touchynge all the esta-  
 tes of the franktenement, or of the free sym-  
 ple, or otherwise. &c. in suche case they be to-  
 gether holden of the lord. &c. but not to make  
 auowite vpon them all together. M. 3. B. 6.  
**A**lso if there be lord and tenant, and the  
 tenant letteth the tenementes to a woman  
 for terme of lyfe, the remaynder ouer in fee,  
 and the woman taketh a husband, and after  
 the lord granteth the seruyces. &c. to the hus-  
 bande and his heires: in this case the serui-  
 ce is putte in suspence, durynge the couerture.  
 But if the woman die, leuyng the husband,  
 the husbände and his heires shall haue the  
 rent of them in the remaynder. &c. And in this  
 case it nedeth nat to haue any attournement  
 by woide. &c. for this that the husband, whic-  
 he ought to attourne, accepteth the dede of  
 the graunt of the seruyces. &c. the whiche ac-  
 ceptance is an attournement in the lawe.

*His suten*



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**I**n lyke maner it is, yf there be lord and tenant, and the tenant taketh a wyfe, and after the lord graunteth the services to the wyfe, and to hir heires, and the baron accepteth the dede: In this case after the deathe of hir husbunde, the wyfe and hir heires shall have the services. .xc. for by the acceptaunce of the dede by the barone, this is a good attournement. .xc. all be it that durynge the couerture, the services were put in suspence. .xc.

**A**lso if there be lord and tenant, and the tenant graunteth the tenementes to a man for terme of his lyfe, the remainder to another in fee, if the lord graunteth the services to the tenant for terme of lyfe, in this case the tenant for terme of lyfe hath fee in the services: But the services be putte in suspence durynge his lyfe, But yet the heires of the tenant for terme of lyfe, shall have the services after his decesse. .xc. And in this case there needeth no attournement, for by the acceptaunce of the dede of hym that ought to attorne. .xc. this is attournement of it selfe. .xc. But where the tenant hath as greatte estate in the tenementes, as the lord hath in the seignourie, in suche case if the lord graunt the services to the tenant in fee, this shall endure by waye of extingwishment, causa patet.

**A**lso if there be lord and tenant, and the tenant maketh a lease to a man for terme of his lyfe, sayynge the reuercion to hym selfe, if the lord graunt the seignourie to the tenant for terme of lyfe in fee, in this case it behoveth

with that he in the reuercion attoune to the tenant for terme of lyfe, by force of the same graunte, or otherwise the graunt is void, for that that he in the reuercion is tenant to the lord. &c. and yet he shall nat' holde of the tenant for terme of lyfe, during his life, causa patet. Cap. 10. 3

**¶ A L S O** if there be lord and tenant, and the tenant holdeth of the lord by **seruitur** maner of seruitur, and the lord graunteth his **seignourie** to an nother, yf the tenant paye in dede any parcell, or do any of the seruises to the graunter, that is a good atturment of and for all the seruitur, though that the tenants entent was to attoune but of the same parcell, for this that the **seignourie** is an hole thyng, though that there be dyuerse maner of seruitur, that the tenants ought to do. &c.

**¶ A L S O** if there be lord and tenant, and the tenant holdeth of the lord by maner of seruitur, and the lord graunteth the seruises to an other by **fine**, if the graunter sue a **Scire facias**, oure of the same **fine**, for any parcell of the seruitur, and bathe iudgemente to recouer, this iudgement is a good atturment in the lawe, for all the seruitur.

**¶ A l s o** yf the lord of a rent seruitur, graunt the seruitur vnto an nother, and the tenant atturmeth by a **penye**, and after the graunter distraineth for the rent behynde, and the tenant to hym maketh **rescous**: In this case the graunter shall nat haue assise of the rent.



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but he shall haue a wytte of rescous, for that the gyfte of the peny by the tenant was but by waye of attournement. But yf the tenant had gyuen vnto the grantee the sayde peny, as parcell of the rente, or an halfe peny, or a farthyng, by way of seysyn of the rent, than this is a good attournement, and also it is a good seysyn to the graunter of the rent. And than vppon suche rescous the graunter shall haue assise, &c.

**¶** Also yf there be many ioyntenantes, whiche holde by certayne seruyces, and the lord graunte the vnto an other the seruyces, and one of the said ioyntenantes atturneth to the grante, this is as good as if al had atturned, for this that the seignourie is hole. Enquire.

**¶ A L S O** if a man let tenementes for terme of yeres, by force of whiche lease the lessee is leased, and after the lessour graunteth by his dede the reuercion to an other for terme of lyfe, or in taylor, or in fee, it behoueth in suche case, that the tenant for terme of yeres atturne, or otherwys nothing passeth to suche a graunter by such a dede. And if in this case the tenant for terme of yeres atturne to the graunter, than by and by passeth the franke tenement to the graunter by suche attournement, without any liure of seysyn. &c. for this that if any lyure of seysyn shall or nedeth to be made in suche case, thanne the tenant for terme of yeres shall be at tyme of the lyuree of seysyn out of his possession, whiche shulde be agaynst reason.

¶ 10

**A**lso yf tenementes be lette to a manne for terme of lyfe, or geuen in the taylor, sayng the reuercion. &c. if he in the reuercion graunt the reuercion to an other by his dede, it beho- ueth that the ternaunt of the land attourne to the grauntee in the lyfe of the grauntour, or otherwyle the graunt is voyde.

**I**n the same maner it is, if lande be geuen in the taylor, or lette vnto a man for terme of lyfe, the remaynder vnto an nother in fee, if he in the remaynder woll graunt his remayn- der to an nother. &c. if the tenant of the lande attourne in the lyfe of the grauntour, than the graunt of suche remaynder is good, or o- therwyle nat.

**A**lso if lande be lette to a manne for terme of yerres, the remainder to an other for terme of lyfe, reserupnge to the lessoure a certayne rent by yere, and liuerie of seisin is made v- pon this to the ternaunt for terme of yerres, yf he in the reuercion in suche case graunte his reuercion to an other. &c. and the ternaunt that is in the remaynder after the terme of yerres, attourneth, this is a good attournement, and he to whom the reuercion is granted by force of suche attournement, shall distrayne the te- naunt for terme of yerres, for the rent due af- ter suche attournement, though the tenant for terme of yerres, neuer attourned vnto hym, and the cause is for this, that where the re- uercion is dependant vpon the state of frank- tenement, it suffyseth that the ternaunt of the franktenement attourne vpon suche grant of



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reuercion. &c. And it is to wyte, that where a lease for terme of yeres, or for terme of lyfe, or a gyfte in the taylor is made to any manne, reserupnge to suche a lessour or donour certayn rente, if suche a lessour or donour grant his reuercion to an nother, and the tenant of the lande attourneth, the rente passeth to the grantee, though that in the dede of the graunt of reuercion, no mencion is made of the rent, for this that the rent is incident to the reuercion in suche case, and nat E conuerso. &c. for yf a manne wil graunt the rent in suche case vnto an nother, reserupng to hym the reuercion of the lande, though the tenant attourn to the grantee, this shal be but a rent secke. &c.

¶ Also yf a man leat lande vnto an other for terme of lyfe, & after suche lease he confirmeth by a dede the estate of the tenant for terme of lyfe, the remainder to an other in fee, and the tenant for terme of life accepteth the dede, this is the remaynder in dede to him, to whom the remainder was giuen or limitted by the same dede, for by the acceptance of the ternaunt for terme of lyfe of the same dede, this is agreement of hym, and so an attournement in law, but yet he in the remaynder shal haue none adyon of waste, nor other benefyte by suche remaynder, excepte he haue the same dede in hys hande, by whiche the remaynder was graunted vnto hym, and for this that in such case the tenant for terme of lyfe woll retayne to hym the dede, to the entente that he in the remaynder shal haue no adyon of waste against

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 agaynst hym, for this that he may not come to  
 haue the possession of the dede. &c. It shall bee  
 good and a sure thynge in suche cas. for him  
 in the remainder, that a dede indeted be made  
 by hym, that wyl make the confirmacion,  
 and the remainder ouer. &c. and that he that  
 maketh suche confirmacion, deliuer a parte  
 of the indenture to the tenaunt for terme of  
 lyfe, and the other parte to hym that hath  
 the remainder. &c. and than he by shewynge  
 of the part of the indenture may haue an ac-  
 tion of waste agaynst the tenaunt for terme  
 of life, and al other aduantage that he in the  
 remainder may haue in suche case. &c.

¶ Also if two ioyntenantes be, whiche let-  
 teth lande to an nother for terme of lyfe, yel-  
 dyng to them and to their heires a certayne  
 rente by yere, in this case yf one of the two  
 ioyntenauntes in the reuercion release to the  
 other ioyntenant in the same reuercion, this  
 release is good, and he to whome the release  
 is made, shall haue onely the rent of the tenat  
 for terme of life, and shall only haue a writ of  
 wast against hym, though he neuer attuned  
 by force of suche release, & the cause is for the  
 priuite that ones was betwene the tenat for  
 terme of lyfe, and hym in the reuercion.

¶ In the same maner, & for the same cause  
 it is, where a man letteth lande to an nother  
 for terme of his lyfe, the remainder to an o-  
 ther for terme of his life, reseruyng the reuer-  
 sion to the lessor, in this case if he in the reuer-  
 sion, release to hym in the remainder. &c. and



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to his heires all his ryghte. &c. than he in the remaynder hath a fee. &c. and shall have a writte of waste agaynst the tenant for terme of lyfe, without any attournement of hym. &c.

**¶ ALSO** yf a lease be made for terme of lyfe, the remaynder vnto an nother in tale, the remaynder ouer to the right heyres of the ternaunt for terme of lyfe, in this case yf the tenant for terme of lyfe, graunt his remaynder in fee, to an nother by his dede, this remaynder by and by passeth by his dede without any other attournement, and he remayneth ternaunt of the lande, nat withstanding the graunt. &c. For if any ought to attourne in this case, it shulde be the ternaunt for terme of lyfe. And it were in vayne that he shoulde attourne vpon his owne graunt. &c.

**¶ ALSO** if there be the lord and tenant, and the tenant holdeth of the lord by certayn rent, and by knyghtes seruyce, yf the lord grant the seruices of the ternaunt by fyne, the seruices be by and by in the grantee by force of the fine, but yet the lord may not distrayne for any parcell of his seruices without attournement. But if the ternaunt dye his heire beinge within age, the lord shall haue the ward of the body of the heire, and of the lande. &c. howe be it that he neuer attourned, for this, that the seignorie was in the grantee mayntenant by force of the fyne. And also in some cases if the ternaunt die without heire, the lord shall haue the tenancie by way of escheat.

**¶ In the same maner it is if a man graunte the reuercion of his ternaunt for terme of lyfe**

to an other by fyne, the reuercion passeth as none to the grauntee by force of the fyne, but the grauntee shall neuer haue action of waste without attournement. &c. But yet yf the tenant for terme of lyfe alien in fee, the grauntee may enter. &c. for this that the reuercion was in hym by force of the fyne, and suche alienacion was to his disinheritaunce. But in this case where the lord graunteth the seruices of his tenant by fine, if the tenant die, his heires beyng of ful age, the grauntee by the fyne shall nat haue the releefe, nor neuer shall distrayne for the reliefe, except there had ben an attournement of the tenant that dyed &c. for of suche thynges that lieth in distresse, vpon the whiche a wyttre of Replegiare is sued. &c. a man ought to anowe the takynge good and ryghtuous. &c. and there oughte to be attournement of the tenant, how be it that the graunt of such seruices be by fine. But to haue warde of landes and tenentes so holden, durynge the nonage of the heire, or the to haue by way of eschete, there nedeth nat any distresse. &c. but an entre in the lande by force of right of the seignorie, that the grauntee hath by force of the fine. &c. and so be the diuersitie.

¶ Also if there be lord, mesne, and tenant, and the mesne graunteth by fyne the seruices of his tenant to an other in fee, and after the grauntee dyeth without heire, nowe the seruices of the mesnaltie shall come & be eschete to the lord paramount by way of eschete, if after the seruices of the mesnaltie be behynd, in this case



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And

he that is lord paramount may distrayne the  
tenaunt, not withstanding that the tenaunte  
dyd yet neuer attourne, and the cause is for  
this, that the mesnaltie was in dede in the  
grauntee by force of the fyne, and the lord  
paramount myght auowe vpon the grauntee  
for this that he was his tenaunt in dede, all  
be it that he shall nat be compelled. &c. but yf  
the grauntour in this case dye without heire  
in the lyfe of the grauntee, than he shall bee  
compelled to auowe vpon the grauntee, and  
also in so moche that the lord paramount may  
not claime the mesnaltie, by force of the grant  
made by the fyne leuied by the mesne, but by  
vertue of the seignourie paramount, by way  
of eschete, he shall auowe vpon the tenaunt  
for the seruices, that the mesne had. &c. all be  
it that the tenant dydde neuer yet attourne.  
¶ In the same maner it is, where the reuer-  
sion of the tenant for terme of lyfe is graun-  
ted by fyne to an other in fee, and the gran-  
tee dyeth after withoute heire, nor the lord  
hath the reuercion by way of eschete. And if  
after the tenaunt make waste, the lord shall  
haue a wytte of waste agaynst hym, nat  
withstanding that he neuer attourned, caus-  
sa qua supra. But where a man claymeth by  
force of the graunt made by the fyne, that is  
to saye, as heyre, or assigne. &c. there he maye  
nat distrayne, nor auowe, nor haue action of  
waste. &c. without attournement.

¶ Also in ancient boroughes or citics where  
tenementes within the same boroughes or  
citics

cities ben diuisable by testamente, by the eu- Cap. 10.  
 stome, and the vse. &c. if in suche bozoughe oꝝ  
 citie a man be leased of rent seruyce, oꝝ of rēt  
 charge, and he deuyseth suche rent oꝝ seruyce  
 to an nother by his testament, and dyeth. &c. in  
 this case he to whome the deuysle is made,  
 may distrayne the ternaunt for the rent oꝝ the  
 seruices behynde, howe be it that the ternaunt  
 neuer attourned.

¶ In the same maner it is where a man let-  
 teth suche tenementes diuisables to an other  
 for terme of lyfe, oꝝ for terme of yeres, and  
 deuyseth the reuercion by his testament to an  
 nother in fee, oꝝ in fee taylor, and dyeth, and  
 anon after that the tenant maketh waste, he  
 to whom the deuysle was made, shall haue a  
 writte of waste, howe be it that the ternaunt  
 neuer attourned, and the cause is for this,  
 that the wyl of the deuysoure made by the te-  
 stament shall bee perfourmed after the entent  
 of the deuysoure, and so the effecte of this li-  
 eth vpon the attournyng of the ternaunte. &c.  
 than percase the tenant wold neuer attourne  
 &c. than the wyl of the deuysour shoulde ne-  
 uer be perfourmed, and therfore the deuisee  
 shall distrayne oꝝ haue an action of waste. &c.  
 without attournement. For yf a man deuise  
 suche tenementes to an other by his testamēt  
 habendum sibi imperpetuum, and dyeth, and  
 the deuisee entreth, he hath a fee simple, causa  
 qua supra. And yet yf a dede of feoffemente  
 were made to him by the deuysor of the same  
 tenement, habendum & tenendum sibi imper-  
 petuum,



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petuum, yf liueree of seisin were neuer there  
byppon made, he shall haue none estate but for  
terme of lyfe. &c.

**A L S O** yf a manne leased of a manour  
whiche is parcell in demesne, and parcell in  
seruices, and therof be disseised, but the tenat  
which holdeth of the manor neuer atturneth  
to the disseisour, in this case, howe be it that  
the disseisour dieth leased. &c. and his heyre is  
in by discent, yet maye the disseisee distrayne  
for the rent, beyng behynde, and haue the ser-  
uice: but if the tenant come to the disseisour,  
and saye, we become your tenants. &c. or o-  
therwise atturne to hym. &c. and after the dis-  
seisour dyeth leased. &c. than the disseisee may  
nat distrayne for the rent, for this that all the  
maner descendeth to the heire of the dysseis-  
our. But if one holde of me by rent seruice,  
which is a seruice in grosse, and not by reason  
of my manour, & an other that no ryght hath,  
claymeth the same rent, and receiveth and ta-  
keth the same rent of my tenant by coaction  
of distresse, or by other forme, and so dissei-  
seth me by takyng of suche rente, howe be it  
that suche a disseisour dye so leased by suche  
takynge of the rent, yet after his deth I may  
well distraine for the same rent being behind,  
before the deth of the disseisour, and after  
his deth, and the cause is for this, that suche  
is not my disseisour but by electiō at my will:  
for howe be it that he toke the rent of my te-  
nant, yet I maye at all tymes distrayne my  
tenant for the rente beynde. &c. soo that it is  
to

to me, but as I wyl suffre the ternaunt to be, Cap. 10.  
 by as muche space of tyme behynde of paye-  
 ment to me of the same rente: for the payment  
 of my ternaunte to an nother, to whome he ne  
 oughte to pay, is no disseisyn to me, nor shal  
 nat put me out of my rent, without my wyl  
 and election: for how be it that I may haue  
 assise agaynste suche a taker. &c. yet this is at  
 my election if I wyl take hym as my dyssep-  
 four or nat, so that suche discentes of rentes  
 in grolle, ne puttethe nat out the lordes from  
 their distresse, but that at eche tyme they may  
 well distraine for the rent behynde. &c. And in  
 this case yf after the deceasse of hym that so  
 wrongfully taketh the rent, I graunt by my  
 dede the seruices to an other, and the ternaunt  
 attourneth, this is good ynough, and the ser-  
 uyce by suche graunt and attournement, in  
 continent be in the grauntee. &c. But othere-  
 wise it is, where the rent is parcel of the ma-  
 nour, and the disseisor dieth seised of the hole  
 manour, as in the case aforesayd.

¶ Also yf I be seised of a maner parcell in  
 demesne, and parcell in seruyce, and I giue  
 certayne acres of lande, parcell of the de-  
 mesne of the same maner to an nother in the  
 taylor, rendyngge to me and to mine heires, a  
 certayne rent. &c. If in this case I be disseised  
 of the manour, and all the tenants attorne  
 and pay their rentes to the disseisor, and al-  
 so the sayd tenant in taylor pay the rent by me  
 reserved to the disseisor, and after the dys-  
 seisor dye seised, &c. and his heyre entereth.

and



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and is in by descent, yet in this I maye after  
well distrayne the tenant in the tale and his  
heires, for the rente by me reserued vpon the  
gyft, that is to say, for the rent being behynd,  
before the descent of the heire of the disseisor,  
and also for the rent, whiche chaunced to be  
behynd, after the same descent, nat withstan-  
dyng the dyng sealed of the disseisor. &c.

¶ And the cause is for this, that whan a mā  
gyueth tenementes to an nother in the tale,  
saupng the reuercion to hym, and he vppon  
the said gift reserueth to hym a rent, or other  
seruices, all the rent and the seruices be inci-  
dent to the reuercion, and whan a man hath  
a reuercion, he can nat be put out of hys re-  
uercion by the dede of a stranger, except that  
the tenant be put oute of his state and posses-  
sion. &c. for as longe as the tenant in the tail  
and his heires continewe theyr possession by  
force of my gyfte, so longe is the reuercion in  
me and my heires, and in so muche that the  
rent and the seruices reserued vpon such cō-  
dicion, be incident and dependaunt to the re-  
uercion, who so euer hath the reuercion, hath  
the same rent and the seruices. &c.

¶ In the same maner it is, where I let par-  
cell of the demesne of the maner, to an other  
for terme of lyfe, or for terme of yeres, ren-  
dyng to me certayne rent. &c. all be it that I  
am disseised of the maner. &c. and the disseis-  
our die. &c. and his heire is in by descent, yet  
I may distraine for the rent behynd, nat with-  
standinge suche descent, vt sup̄a, For whan  
a manne

a man hath made suche a gifte in taylor, or su: Cap. ii.  
 che a leas for terme of life, or for terme of ye-  
 res, of parcell of the demesne of a maner. &c.  
 sauyng the reuercion to suche donour or les-  
 sour. &c. and afterwarde if he be disseised of  
 the maner. &c. suche reuercion after suche dis-  
 seysyn is seuered of the maner in dede, all bee  
 it, it is not seuered in righte. And so maye ye  
 see diuersitie, where there is a maner, parcell  
 in demesne, and parcell in seruices, the whiche  
 the seruices be parcell of the same maner, not  
 incident to any reuercion. &c. or where they be  
 incident to a reuercion. &c.

### Discontinuance. Cap. xi.

**D**iscontinuance is an auncient worde  
 in the lawe, and hath diuers signifi-  
 cations. &c. But as to one entente it  
 hath such a significatiō, that is to say, where  
 a man hath aliened to an nother certayn lan-  
 des or tenementes, and dieth, and an nother  
 had ryght to haue the same landes or tenemē-  
 tes, but he may not enter in them because of  
 suche alienacion. &c.

**A**s if an abbot be seased of certayn landes  
 and tenementes in fee, and he alieneth the  
 same landes and tenementes to an nother in  
 fee, or in fee taylor, or for terme of lyfe, and the  
 abbote dieth, his successor maye not enter  
 in the same landes or tenementes, howe be it  
 that he haue ryghte to haue theym, as in the  
 ryghte of his house, but he is put to his adua-  
 on to



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on to recover the same landes or tenementes, whiche is called a wytte, De ingressu sine assensu capituli.

**A L S O** if a man be seased of land, as in the ryght of his wyfe. &c. and therof enfeoffeth an other. &c. and dieth, the wyfe ne maye nat enter, but she is put vnto hir action, the whiche is called Cui in vita. &c.

**A l s o** yf the ternaunte in taylor of certayne lande, enfeoffe an other therof. &c. and hath issue and dieth. &c. his issue maye nat enter in the lande, howe be it that he hath ryghte and title thereto, but is put to his action, that is called Formedon in descender.

**A L S O** if there be ternaunt in the taylor and the reuercion is to the donour and to his heires, if the ternaunt make a scoffement. &c. and dyeth without issue, he in the reuercion may not entre, but is putte to his action of Formedone in the reuerter.

**A N D** in the same maner it is, where the ternaunt in the taylor of certayne lande is seised, wherof the remainder is to an other in the taylor, or to an other in fee, if the ternaunt in the taylor alpeneth in fee, or in fee taylor. &c. and after dyeth without issue, they in the remainder may nat enter, but be put to the wytte of Formedone in the remainder. &c. And for this that by force of suche fessment and suche alpenacions in the cases aforesaid, and in other lyke cases, they whiche have title and right after the death of suche a feofour or alienour, may nat enter, but be putte to their

so they

will not be put to their action of Formedone in the reuerter

to their actions vt supra, therfore suche feof- Cap. II, 3  
fementes and alienacions be called discontin-  
nuances.

**¶ ALSO** if tenant in the taylor be dysseis-  
sed, and he releaseth by his dede to the disseis-  
sour and to his heires all the ryghte that he  
hath in the same lande, this is not discontin-  
nuance, for this that nothyng of ryghte pas-  
seth to the disseisour, but for terme of lyfe of  
the ternaunt in the taylor that made the release  
tc. But by the feoffement of ternaunte in the  
taylor a fee simple passeth by the same feoffe-  
ment by force of a liueree of seisen. tc. but by  
force of a release nothyng passeth, but the  
ryght that he may lawfully and ryghtfully re-  
lease without hurte or damage to other pers-  
ons, whiche therto haue ryghte after his de-  
ceasse. tc. and so it is a greatte diuersitie be-  
twene a feoffement of the tenant in the taylor,  
and a release made by the tenant in the taylor.  
But it is sayd, that if ternaunt in the taylor in  
this case release to the dysseisour, and byn-  
deth hym and his heires to warrantie. tc. and  
dyeth, and this warrantie descendeth to his  
issue, than that is a discontinuance, because  
of the warrantie. tc. But if a man haue issue  
a sonne by his wyfe, and his wyfe dyeth, and  
after he taketh an nother wyfe, and the tene-  
mentes be geuen to him and his second wife,  
and to the heires of their two bodies engen-  
dred, and they haue issue an other sonne, and  
than the seconde wyfe dieth, and after the te-  
nant in the taylor is disseised, and he releaseth  
to his

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to his disseisour all his right. &c. and byndeth him and his heires vnto warrantise, and dieth this is no discontinuance to the pssue in the taylor by the seconde wyfe, but he may wel enter. &c. for this that the warrantie descended to his elder brother that his father hadde by his fyrste wyfe. &c.

**I**n the same maner it is, where tenementes be descendable to the yonger sonne after the custome of borough englyshe, whiche ben taylord. &c. and the ternaunt in the taile hath issue two sonnes, and is disseised, and he releaseth to his disseisour all his right with warrantise, and dieth, the yonger sonne may enter vpon the disseisour not withstanding the warrantise, for this that the warrantise descendeth to the elder sonne, for alway the warrantise descendeth. &c. to hym that is heire by the common lawe.

**A**lso if an abbotte be disseised, and he releaseth to the disseisour with warrantise, this is no discontinuance to his successour, for this that nothyng passeth by this release, but the ryghte that he hath durynge the tyme that he is abbotte, and this warrantise is expired by his priuacion, or by his deathe.

**A**lso yf a manne be seised in ryghte of his wyfe, and is disseised, and he releaseth. &c. with warrantie, this is no discontinuance to the wyfe, if she suryue hir housbande, but that she may enter. &c. causa patet.

**A**lso if tenant in the taylor be seised of certayne lande, and he letteth the same lande to an

an other for terme of yerres, by force of whiche the lease the lessee is in possession, and after the tenant in the tale by his dede releaseth all his right that he hath in the same land, to have and to holde to the lessee, and to his heires for ever, this is no dyscontinuanee, but after the deceasse of the ternaunte in the tale his issue may well enter, for this that by such release nothinge passeth but for terme of lyfe of the tenant in the tale.

**I**n the same maner it is, if the ternaunte in the tale confirme the estate of the lessee for terme of certayne yerres, to have and to holde to hym and to his heires: this is a dyscontinuanee, for this that nothinge passeth by such confirmation, but the estate that the tenant in the tale had for terme of his lyfe. &c.

**A L S O** if tenant in tale after such lease graunt the reuercion in fee by his dede to another, and wpll, that after the terme finished, that the same land remaine to the grantee, and to his heires for ever, and the tenant for terme of yerres attourneth, this is no discontinuance. For such thinges whiche passe in suche cases fro the tenant in tale onely by way of graunt, or by confirmation, or by release, maye passe nothinge to make estate to him, to whome the graunt, or confirmation, or release is made, but onely that that the tenant in the tale may rightfully do, and that is but for terme of his lyfe. &c. For yf I leate lande to a man for terme of his lyfe. &c. and the ternaunte for terme of lyfe, lette the same

It is  
land



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lande to an nother for terme of yeres. &c. and after my tenant for terme of lyfe, graunt the reuercion to an nother in fee, and the ternaunt for terme of yeres atturneth, in this case the graunte hath not in the franketement estate, but for terme of the lyfe of hys grauntour. &c. and I that am in the reuercion of the fee simple, may not enter by force of the grant of the reuercion made by my tenant for terme of lyfe, for this that by suche graunte my reuercion is nat discontinued, but always it abydeth to me, as it was afore, nat withstanding such grant of the reuercion made to the grauntee, to him and to his heires. &c. for this that nothing passeth by force of suche grant, but the estate that the grauntour hath. &c.

**I**n the same maner it is, if the tenant for terme of lyfe by his dede confyrme the estate of his lessee for terme of yeres, to have & to holde to hym & to his heires, or releasse to his lessee and his heires, yet the lessee for terme of yeres hath not estate but for terme of the lyfe of the tenant for terme of lyfe. &c. But other wyse it is, whan a ternaunt for terme of lyfe, maketh a feoffement in fee, for by suche feoffement the fee simple passeth. For ternaunt for terme of yeres may make a feoffement in fee, and by his feoffement, the fee simple shal passe, and yet he had not at the tyme of the feoffement made, but only estate for terme of yeres.

**A**lso yf ternaunt in taylor, graunt his lande to an nother for terme of lyfe of the same ternaunt in taylor, and lyueres of seiscyn to hym

is made. &c. and after by his deede releaseth Capitulum  
 to the tenant and to his heires, all the ryghte  
 that he hath in the same lande: in this case  
 the estate of the ternaunte of the lande is nat  
 enlarged by force of suche releasse, for this  
 that whan the ternaunt hath the estate in the  
 lande, for terme of the lyfe of the ternaunt in  
 taylor, than he hath al the right that the tenat  
 in taylor might rightfully graunt or releasse, so  
 that by suche releasse no ryghte passeth, in so  
 muche that his right was gone before.

¶ Also if tenat in the taylor by his dede grant  
 to an nother all his estate that he hath in the  
 tenementes intayled to hym, to haue and to  
 holde all his estate to the tother, and to his  
 heires for ever, and deliuereth to hym seysin  
 accordyng. In this case the tenant, to whom  
 the alienacion was made, hath none other es-  
 tate but for terme of lyfe of the ternaunte in  
 taylor. And so it may well be proued, that the  
 tenant in the taylor maye nat graunt ne alien  
 ne make any ryghtfull estate of the franktes-  
 nement to an nother person, but for terme of  
 of his owne lyfe. &c. For yf I gyue certayne  
 lande in the taylor to a man, sayyng the reuer-  
 sion to me, and after the ternaunt in the taylor  
 enfeoffeth an other in fee, the feoffee hath no  
 ryghte estate in the tenementes for twoo cau-  
 ses. One is for that by suche feoffement my  
 reuersion is discontinued, which is a wronge  
 acte, and nat a rightfull acte. In nother cause  
 is, yf the ternaunte die, and his issue leueth  
 a wytte of formedone agaynste the feoffee.



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**Cap. II.** The wytte shall say, and also the declaracion, that the feoffee wrongfully hym deforced. *sc.* Ergo yf he of wrong hym deforced. *sc.* he had no right estate.

**¶** Also yf lande be leat to a man for terme of his lyfe, the remainder to an nother in taile, yf he in the remainder wyl graunte hys remainder to an nother in fee by his dede, and the tenant for terme of lyfe attourne the, this is no discontinuance of the remainder.

**¶** Also yf a manne hath rent service, or rent charge in taile, and he graunteth the sayde rent to an other in fee, and the tenant attourneth, this is no discontinuance. *sc.*

**¶** Also yf a man be ternaunt in the taile, of a tounson in gosse, or of common in gosse, if he by his dede wyl graunte the tounson or the common to an nother in fee, this is no discontinuance, for in suche cases the graunte hath no estat: but for terme of lyfe of the tenant in the taile, that made the graunt. *sc.*

**Note** wel that such thinges, as passe by way of graunt by dede, made in the countrey without lpuerce there. *sc.* Suche graunt maketh no discontinuance, as in the cases aforesaide, or in other lyke. *sc.* and how be it that such thinges be graunted in fee, by fyne leuyed in the kynges court. *sc.* yet this maketh no discontinuance. *sc.*

**¶** Also yf I gyue lande to an nothere in the taile, and he leatteth the same lande to an nother for terme of yeres, and after the les for granteth the reuercion to an other in fee, and

and the tenant for terme of yeres attourneth to the grauntee, and the terme is expired, duringe the lyfe of the ternaunt in taylor, by the whiche the grauntee entreth, and after the ternaunt in taylor hath issue and dieth, in this case this is no discontinuance, not withstandinge that the graunt was executed in the lyfe of the ternaunt in taylor, for this, that at the time of the lease made for terme of yeres, no new fee simple was reserved in the lessor, but the reuercion abideth in hym in the taile, as it was afore the lease made. But if the ternaunt in taylor make a lease for terme of lyfe of the lessee. &c. in this case the ternaunt in the taylor hath made a newe reuercion of fee simple in hym, for this that whan he made a lease for terme of lyfe. &c. he discontinued the taile by force of the same lease, and also he discontinued my reuercion. &c. and it behoueth that the reuercion of the fee simple be in some person in suche case, and it maye nat bee in me, whiche am donour, in so muche that my reuercion is discontinued, ergo it behoueth that the reuercion of the fee bee in the ternaunte in the taylor, that discontinued my reuercion by suche lease. &c. And yf in this case the ternaunte in the taylor, graunt by his dede the reuercion in fee to an nother, and the ternaunt for terme of lyfe attourneth. &c. and after the ternaunte for terme of lyfe dieth, duringe the tenant in the taylor, and the grauntee of the reuercion entreth &c. in the lyfe of the tenant in the taylor, than this is a discontinuance in fee, and if

¶ it is

after



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no bene

after the ternaunt in the taylor dieth, his issue may nat enter, but he is put to his wytte of forme done, and the cause is for this, that he that hath the graunt of such reuercion in fee simple, hath the seisin and execution of the same landes and tenementes, to haue to hym and to his heires in his demesne as of fee, in the lyfe of the tenant in taylor. &c. And this is by force of the same graunte of the tenant in taylor. &c.

**I**n the same maner it shalbe, if in the case aforesaid, the ternaunt for terme of lyfe, after the attournement of the grantee had aliened in fee, and the grantee had entred by forfeiture of his estate, and after the tenant in taylor had died, this is a discontinuance, causa qua supra. But in this case, if tenant in taylor, that granted the reuercion. &c. dye, lyupnge the ternaunte for terme of lyfe, and after the ternaunte for terme of lyfe dyeth, and after he to whom the reuercion was graunted, entreth. &c. then this is no discontinuance, but that the issue of the ternaunt in the taylor may well enter vpon the grauntee of the reuercion, for this that the reuercion that the grantee hath, was nat executed in the lyfe of the tenant in taylor. &c. And so there is great diuersitie, whan the tenant in the taylor maketh a lease for terme of yeres and where he maketh a lease for terme of lyfe for in the one case he hath reuercion in the taylor, and in the other case he hath a reuercion in fee. For if lande be geuen to a man and to his heires males of his body engendred, the whiche

whiche hath issue two sonnes, and the elder sonne hath issue a daughter and dyeth, and the tenant in tale maketh a lease for terme of yerres, and dyeth, now the reuercion descendeth to the yonger sonne, for this that the reuercion was but onely in the tale, and the yonger sonne is heire male. &c. but yf the tenant in tale hadde made a lease for terme of lyfe. &c. and died, now the reuercion descended to the daughter of the eldeste sonne, for this that the reuercion is in fee simple, and the daughter is heire generall. &c.

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**¶** ALSO if a manne be seyled in tale of landes devisables by testament. &c. and he deviseth this to an nother in fee, and dieth, and the other entreth. &c. this is no discontinuance for this that no discontinuance was made in the lyfe of the tenant in the tale. &c.

**¶** ALSO yf lande be gyven in tale, savinge the reuercion to the donour, and after the tenant in tale by his dede enfeofeth the donour in the same land, to have and to hold to hym and to his heires for ever, and delivereth to hym seisin accordyng. &c. this is no discontinuance, for this that none maye discontinue thestate in the tale, if that he dooe not discontinue the reuercion of hym, whiche had it in the reuercion. &c. or in the remainder, if any hath it in the remainder. &c. And in so muche that by suche feoffement made to the donour, the reuercion than being in hym, his reuercion is not discontinued nor altered. &c. this feoffement is no discontinuance. &c.



**I**n the same maner it is, where landes be geuen to a man in taylor, the remaynder to another in fee, and the tenant in taylor enfeofeth hym, which is in the remaynder, to haue and to holde to hym and to his heires, this is no discontinuance, *causa qua supra* &c.

Also yf an abbot haue a reuercion of a rent service, or rent charge, and wyl graunt one of them to another in fee, and the tennant atturneth. &c. this is no discontinuance.

**I**n the same maner it is where an abbot is seised of aowson, or of suche thynges that passe by way of graunt without lyuerie of seisin. &c.

Also if there be graunde father, tenant in the taylor, father and sonne, and the graunde father is disseised by the father, and the father maketh a feoffment in fee without warrantise and dieth, and after the graunde father dieth, the sonne may well entre vpon the feoffee, for this that this was no discontinuance, in so muche that the father was not seised by force of the taylor at the tyme of the feoffement. &c. but was seised in fee by the disseisin made to the graunde father. &c.

**A**ND it is to be knowen, that there be some discontinuances for terme of lyfe, as yf tenant in taylor make a lease for terme of lyfe, caryng the reuercion to hym, as longe as the reuercion is to the tenant in taylor, or his heires, it is no discontinuance but durynge the lyfe of the tenant for terme of lyfe. &c. And yf suche tenant in taylor geue the tenementes to

an no:

an other in talle, sauyng the reuercion, than this is a discontinuance durynge the seconde talle. 1c. But where the ternaunt in talle maketh a lease for terme of yeris, or for terme of lyfe, the remaynder to an nother in fee, and deliuereth liure of seisin accordyng, this is discontinuance in fee, for this that the fee simple passeth by force of the liure of seisin. 2c. And it is to wyte, that some suche discontinuances bee made vpon condicion. 1c. and for this that the condicions bee broken. 1c. or for other causes after the course of the lawe, such estates be defeted, than be the discontinuances defeted, and do nat take away any man by force of them from his entre, as yf a housband be seised of certayne lands in ryght of hys wyfe, and maketh a feoffement in fee vpon condicion, and dyeth, yf the heire after enter vpon the fesse for the condicion broken, the entre of the wife is lawful vpon the heire, for this that by the entre of the heire, the discontinuance is defeted, as it is adiudged.

Also yf a woman inheryted, take an husbände, whiche husbände is within age, and the husbände maketh a feoffement in fee of the tenementes of the wife, and dieth, it hath ben questyoned, yf the wyfe may enter or nat. And it semeth to some men, that the entre of the wife after the death of her husbånd shall be lesfull in this case, for whan the husbånd made suche a feoffement. 1c. he myghte well enter nat withstandyng such feoffement, durynge the couerture, and he myght nat enter



in his owne right, but in the right of his wyfe  
 .xc. Ergo suche ryghte that he had to enter in  
 the ryghte of his wyfe. .xc. that right of entre  
 abydeeth to the wyfe after his decesse.

¶ And it hath ben sayd, that yf two ioynte-  
 nantes beyng within age, make a feoffement  
 in fee, and one of the chyldren dieth, and that  
 other suruiueth, in so muche that bothe chyl-  
 dren myght enter ioyntly in theyr lyues, this  
 right of entre groweth al to hym that surui-  
 ueth, and so he may enter into the hole. .xc. but  
 the heire of the husbände that made the fesse-  
 ment within age maye nat enter. .xc. for this  
 that no ryght descendeth to suche an heyre in  
 the case aforesayde, for this that the husband  
 had neuer any thyng but in the ryghte of his  
 wyfe. .xc. And also whanne a chylde maketh a  
 feoffemente beyng within age, this shall ne-  
 uer greue nor hurt hym, but that he may well  
 enter. .xc. for this shoulde be agaynste reason,  
 that suche a feoffemente made by hym, that  
 was nat able to make such a feoffement, shal  
 greue or hurte an other to tolle them of theyr  
 entrees. .xc. And for these causes, it semethe to  
 some, that after the deathe of suche an hous-  
 bande so beyng within age at the tyme of the  
 fessment. .xc. that his wyfe may wel enter. .xc.

¶ ALSO yf a woman enherytrice taketh  
 an husbände, and hath issue a sonne, and the  
 husbände dyeth, and she taketh an other hus-  
 bande, and that secound husband letteth the  
 lande, that he hath in the ryght of his wyfe,  
 to an nother for terme of his lyfe, and after  
 the

the wife dieth, and after the tenant for terme of lyfe surrendreth his estate to the seconde husband. &c. Enquire if the sonne of the wife may enter or nat in this case vpon the second husbände, durynge the lyfe of the tenant for terme of lyfe. &c. But it is clere lawe, that after the death of the tenant for terme of lyfe, the sonne of the wyfe may wel enter, for this that the discontinuance that was made all onely for terme of lyfe is determyned by the deth of the same tenant for terme of lyfe. &c.

**A L S O** it is to bee knowen, that an estate tyled, maye nat be dyscontinued, but where he that made the discontinuance was ones seised by force of the tyle, so that it be nat by reason of warrantie. As if there bee grandfather, father, and son, and the grandfather is tenant in tyle, and is dysseised by the father whiche is his son, and the father maketh a feoffement of this, withoute warrantye, and dyeth, and after the grandfather dyeth, the sonne may wel entre vpon the feoffee, for this that this is no discontinuance, in soo muche that the father was nat seised by force of the tyle at the tyme of the feoffement. &c. but was seised in fee, by the disseisin made to his grandfather. &c.

**A L S O** yf tenaunt in tyle make a lease to an other for terme of lyfe, and the tenant in tyle hath issue and dyeth, and the reuercion descendeth to his issue, and after the issue graunteth the reuercion to hym descended to an other in fee, & the tenant for terme of life as forns the

nota



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turneth. &c. & is seised in fee, in the lyfe of the issue, & afterwarde the issue in the taylor hath the issue a sonne, and dieth, it semeth that this is no discontinuance to the sonne, but that the sonne may enter. &c. for this that his father, to whom the reuercion of the fee simple descended. &c. had not at any tyme any thing in the lande by force of the taylor. &c. For if a man seised in right of his wife, leat the same lande to an other for terme of hys lyfe, now is the reuercion of the fee simple in the housbande. &c. and if the housbande die, luyng the wife, and the tenant for terme of life, and the reuercion descendeth to the heyre of the housband, and he graunteth the reuercion to an other in fee, and the tenant attourneth, and after the tenant for terme of lyfe dyeth, and the graunter of the reuercion entreteth: in this case this is no discontinuance to the wife, but the wife may well enter upon the graunter &c. for this that the grantour had nothing at the tyme of the graunt in the right of hys wyfe, whan he made the grant of the reuercion. And thus it semeth, though that menne whiche be inheritable by force of the taylor, were neuer seised by force of the same taylor, that yet suche feoffementes or grauntes by them made without clause of warrantie, is no discontinuance to theys issues, after theys deceasse, but that their issues may wel enter &c. all though that they whiche made such grauntes in their lyues, were forbarrd to enter by their owne dede. &c.

End

**A**ND if ternaunt in taylor hath issue two sonnes, and the eldeste disseiseth his father, and maketh a feoffment in fee, without clause of warrantie, and dyeth without issue, and after the father dyeth, the yonger sonne may well enter vpon the feoffee, for this that the feoffment of his elder brother can nat be discontinued, for this that he was neuer leased by force of the taylor. For it seemeth agaynst reason, that by a matter in dede. &c. without clause of warrantie, that a man maye discontinue a taylor. &c. whiche was neuer seyled by force of the same taylor.

**I**n the same maner it is, yf a man make a lease for terme of lyfe, the remaynder to another in taylor, and he in the remaynder disseiseth the tenant for terme of lyfe, and maketh a feoffment to another in fee, and dieth, and after the tenant for terme of lyfe dyeth: it seemeth in this case, that he in the reuercion may well enter vpon the feoffee, for this that he in the remaynder, whiche made the feoffment, was neuer leased in the taylor by force of the same remaynder. &c.

**A**lso if there be lord and ternaunt, and the ternaunt graunteth the tenementes to another in taylor, and after the tenant in taylor maketh a lease to a man for terme of lyfe. &c. saynge the reuercion. &c. and after graunteth the reuercion to another in fee, and the ternaunte for terme of lyfe atturneth. &c. and after the grantee of the reuercion dieth without heire, now the same reuercion cometh to the lord by



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by way of eschete: If in this case the tenant for terme of lyfe dyeth, and the lord by force of his eschete, entreth in the lyfe of the tenant in taylor, and after the tenant in taylor dyeth, it semeth in this case, that this is no discontinuance to the issue in the taylor, nor to hym in the remainder, but that he maye wel enter, for this that the lord is in by way of eschete, and not by the tenant in the taylor. &c.

But it shoulde be otherwys, yf the reuercion had ben executed in the grauntee in the lyfe of the tenant in the taylor, for than hadde the grauntee ben in the tenementes by the tenant in the taylor. &c.

¶ Also if the person or vicar of a church, aliene certayne landes or tenementes parcell of his glebe. &c. to an other in fee, and dyeth, or resygneth. &c. his successor may wel enter, nat withstandinge suche alienacion, as it is said in An. 2. H. 4. termino Michaelis, quod sic incipit: Nota quod dictum fuit pro lege, in a writ of accompte brought by the mayster of a colledge, agaynst a chapleine, that if a persone or a vicar graunte certayne landes, that is of the ryght of his church, to an other and dieth or chaungeth, that his successor may enter. And I thinke that the cause is for this, that the persone or vicar that is leased &c. as in the right of his church, hath no right of fee simple in the tenementes, and the right of the fee simple of this, abydeth in any or ther person. And for this cause his successor may well enter, nat withstandinge suche alienacion

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nacion. *ic.* for a byshop may haue a wytte of **Cap. II.**  
 ryght of tenementes of the ryght of his bys-  
 shoppe, for this that the ryght of fee sym-  
 ple abydeth in hym and his chapter. And a  
 deane may haue a wytt of ryght. *ic.* for this  
 that the ryght abydeth in hym and his chapi-  
 ter. And an abbott may haue a wytt of right  
 for this that the ryght abydeth in hym and in  
 his couente. And a mayster of an hospitall  
 may haue a wytte of ryght, for this that the  
 ryght abydeth in hym, and in his cobyetherne  
*ic.* *Et sic de aliis in casibus consimilibus. &c.*

But a person or a byear may nat haue a wytt  
 of ryght. *ic.* but the hyghest wytte that they  
 may haue, is a wytt *De iuris virum*, the whi  
 che is a great pofe, that the right of fee sym-  
 ple is not in thym, nor in no others. *ic.* but  
 the ryght of fee symple is in abiance, that is  
 to say, al onely in the remembrance, entende-  
 mente, and consideration of the lawe. *ic.* for  
 me semeth that suche a thyng in such a right,  
 that is said in dyuers booke to be in abiance,  
 is as muche to say in latin. *s. talis res vel ta-*  
*le rectum, que vel quod non est in homine, ad*  
*tunc superflite, sed tantummodo est, & consistit*  
*in consideratione, & intelligencia legis. &c.*  
 & quidam alii dixerunt talem rem aut tale re-  
 ctum fore in nubibus. *ic.* But I suppose that  
 they vnderstand by these wordes in nubibus  
 &c. as I haue sayd before.

**¶ ALSO** of a persone of a churche dye,  
 nowe the franketenement of the glebe of the  
 personage is in no manne, durynge the tyme  
 that



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that the personage is void, but is in abſence, that is to ſay, in conſideration and intelligence of the lawe till an nother be made perſon of the ſame church, and immediately when an nother is made perſone, the franktenement in dede is in hym as ſucceſſour.

Obiection.

**A L S O** ſome menne peradventure will argue and ſay, that in ſo muche that the perſon with the aſſents of the patron and ordinarie may graunte a rent charge out of the glebe of his perſonage in fee, and ſo charge the glebe of the perſonage perpetually: Ergo they haue fee ſimple, or two, or one of them haue fee ſimple, at the leaſte. &c. to this it may be answered, that it is a principle in the lawe, that of euery lande there is a fee ſimple in ſome man, or elles the fee ſimple is in abſence &c. And an other principle is, that euery lande of fee ſimple, &c. may be charged with a rent charge in fee, by one way or by an nother. &c. and when ſuche rent is graunted by the deede of the perſone, and the patrone and the ordinarie in fee, none ſhall haue no preiudice or loſſe by force of ſuche graunt, but the grauntours in their lyues, and the heires of the patron, and the ſucceſſours of the ordinarie after their deceaſes. And after ſuche charge, yf the perſon dye, his ſucceſſour may nat come to the ſayde church to be perſon of the ſame church by the lawe, but by preſentment of the patron, and admyſſion, and inſtitucion of the ordinarie. &c. And for this cauſe it behoueth that the ſucceſſor hold hym

contente and agreed with that which his patron and ordinarie lawefully haue dooen before. &c. But this is no pfofe, that the fee simple. &c. is in the patron and the ordynarie, or in any of theym. &c. but the cause that suche ret charge is good is for this, that they which had entrees. &c. in the sayde church, that is to saie, the patron after the law temporal, and the ordynarie after the lawe spiritualle, were assented, or parties vnto suche a charge &c. And thus semeth the very cause that such glebe maye be charged in perpetuities.

¶ Also yf ternaunt in tale hath issue, and is dyssesed, and after by his dede he releaseth all his ryght to the dyssesour, in this case no ryghte of tale may be in the tenant in tale, for this that he hath released all his ryghte, and no ryght may be in the yssue in the taile, duringe the lyfe of his father, and such right of inheritaunce in the tale, is nat al vttersly expyred by force of suche release. &c. ergo it behoueth that suche ryght abyde in abiaunce, &c. vt supra, duringe the lyfe of the tenant in tale, which released. &c. and after his decesse, than is suche right maintainable in the issue in dede. &c.

¶ In the same maner it is, where tenant in tale graunteth all his estate to an nother, in this case the graantee hath not estate but for terme of lyfe of the ternaunt in tale, and the reuercion of the tale is nat in the tenant in tale, for this, that he hath graunted al his estate of his ryghte. &c. And yf the ternaunt, to

¶ ii

whom

*Altho if the  
in tail hath  
issue he  
must put  
a reuinit*



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In home the graunte was made, make waste, the tennaunt in taylor shall neuer have a wytte of waste, for this that no reuercion is in him, but the reuercion and the inheritaunce of the taylor, during the tyme of the tennaunt is in a byaunce, that is to saye, onely in the remembrance, consyderaþon, and intelligence of the lawe.

¶ Also yf a bisshoppe alene landes, whiche be parcell of his byshopricke, and dyeth, this is a discontinuance to his successour, for this that he ne maye nat enter, but is putte to his writ De ingressu sine assensu capituli. &c.

¶ Also yf a deane alene land, parcell of his deanrie, & dieth, his successour ne may nat enter, but he may have a writ de ingressu sine assensu epi & capituli. &c. But if the dean and the chapter haue lande to theim, and to their successours in common. &c. how be it that the deane alien suche landes, his successours may well enter, for this that the franketement at the tyme of the alenacion was as well in the chapter, as in the deane. But where the deane is sole leased, as in tyght of his deanry, than such alienacion is a discontinuance to his successour, as it is aforesaid.

¶ Also some menne wyll argue and say, that yf an abbot and his couent be leased in theyr demesne as of fee, of certayne land to theim, and to their successours. &c. and the abbote withoute assente of his couente, aleneth the same lande vnto an nother, and dieth, this is a dyscontinuaunce to his successours. &c. and by

by the same reason they will say, that where a deane and a chappiter bee seised of certayne landes to them and to their successors, yf the deane alpen the same landes .xc. this shall bee a discontinuance to his successors, soo that his successor may nat enter .xc. to this may be answered, that there is greater diuersity betwene the sayd twoo cases. For whan the abbot and the couent be seised .xc. yet if they be disseised, the abbot shall haue assise in his owne name, withoute namyng of his couent .xc. And yf a man will sue a *Præcipe quod reddat*, of the same landes, whan they be in the handes of the abbote and his couente, it behooueth, that suche an action shall be sued agaynst the abbote onely, withoute namyng of the couente. .xc. for this that all they been deade persons in the lawe, saue only the abbot that is souerayne. .xc. and this is bycause of the souerayntie. .xc. for els he shoulde be as one of the other monkes of the couent. .xc.

But the deane and the chappiter be noo deade personnes in the lawe. .xc. For eche of theym may haue an action by him selfe in diuers cases, and of such landes or tenementes, which the deane and chappiter haue in common. .xc. yf they be disseised, the deane and the chappiter shall haue assise, and nat the deane alone .xc. and yf an other will haue an action realle of suche landes or tenementes agaynst the deane. .xc. it behooueth hym to sue agaynst the deane and chappiter, and nat against the deane alone. .xc. and so appereth great diuersitie be-



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**Cap. H.**

twene these two cases. &c.

**A**lso yf the mayster of an hospitall discons-  
eigne certayne lande of his hospitall, his suc-  
cessours may nat enter, but he is putte vnto  
his wytt, *De ingressu sine assensu confratru  
& consororum. &c.* and all suche wyttes do  
playnly appere in the register. &c.

**A**lso yf lande be let to a man for terme of  
his lyfe, the remainder to an other in the tail,  
cauyng the reuercyon to the dysseysour, and  
after he in the remaynder dysseyleth the tenat  
for terme of life, and maketh a feoffement to  
an other in fee, and after dieth without issue,  
and the tenat for terme of life dieth, it semeth  
in this case, that he in the reuercion may wel  
enter vpon the feoffee, for this that he in the  
remaynder, that made the feoffemente, was  
never sealed in the taylor by force of the same  
remainder. &c.

**Remitter. Cap. vii.**

**R**emitter is an aunciente terme in the  
lawe, and it is where a man hath two  
tytles to landes or tenementes, that  
is to say, one of an elder title, and an nother  
of a later title, and he cometh to the lande  
by the latter tittle, yet the lawe adiugeth him  
to bee in, by force of the elder tittle, for thys  
that the elder title is the more sure tittle, and  
the more worthy title, and than whan a man  
is iudged in by force of the more elder title,  
thys is vnto hym sayde, a remytter, for this  
that

**Remytter  
by reasone  
of discente,**

that the lawe shall admytte hym to be in the lande, by the elder title. As yf the tenaunt in the taylor discontinue the taylor, and after he disseiseth his discontinuee, and so dieth seised, wherby the tenementes descende to his issue or couzyn inheritable by force of the taylor, in this case, this is to hym, to whom the tenementes descende, which hath righte by force of the taylor, a remitter in the taylor, for that that the lawe shall put and adiudge hym to be in by force of the taylor, whiche is his elder title, for if he shalbe in by force of the descent, than the discontinuee maye haue a writte of entre upon the disseisyn in the per against him, and recouer the tenementes and his damages. &c. But in so muche that he is in his remitter by force of the taylor, the title and the interest of the discontinuee is all vtterly adnulled, and defeted. &c.

¶ Also if tenat in the taylor enfeoffe his sonne or his couzyn inheritable by force of the taylor in fee, the which sonne or couzyn at the tyme of the feoffement is within age, and after the tenant in the taylor dieth, and he to whom the feoffement was made, is his heire by force of the title in the taylor, this is a remitter to the heire in the taylor, to whome the feoffement was made. For howe be it that durynge the lyfe of the tenaunt in the taylor, that made the feoffement, suche heire shall be adiudged in by force of the feoffement, yet after the dethe of the tenant in the taylor the heire shall be adiudged in by force of the taylor. &c. and not by



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force of the feoffment, for though he that sue  
the an heire was of fullie age attc the tyme  
of the death of the tennaunte in the taylor,  
that made the feoffment, this makethe no  
matter, yf the heire were within age, at the  
tyme of the feoffment made to hym. And yf  
suche an heire beyng within age, at the tyme  
of the feoffment, cometh to full age, living  
the tennaunt in talle that made the feoffment,  
and so beyng of full age, he chargeth by his  
dede the same lande with a common of pa-  
sture, or with a rent charge, and after the re-  
nant in the taylor dieth: nowe it seemeth that  
the lande is dyscharged of the common and  
of the rent, for this that the heire is in by an  
other estate in the lande, than he was at the  
tyme of the charge made, in so muche that he  
is in his remyter by force of the taylor, and so  
the estate that he hadde at the tyme of the  
charge is utterly defeted. &c.

**A L S O** a principall cause is, why such  
an heire in the cases aforesayd, and other ca-  
ses semblable shall be sayd in his remyter is  
for this, that there is no personne agaynst  
whom that he maye sue his writ of forme done:  
for agaynst him selfe he may nat sue, and he  
may nat sue agaynst none other, for none o-  
ther is tenant in the franketement, and for  
that cause the lawe adjudged hym in his re-  
mytter, that is to say, in such pleyte, as if he  
hadde lausfully recovered the same lande a-  
gaynst an nother. &c.

**A L S O** if lande be taylor to a man and  
his

his wyfe, and to the heires of their two bodies engedred, the whiche haue issue a daughter, and the wyfe dieth, and the husbände taketh an other wyfe, and hath issue an nother daughter of his body, and discontinueth the taylor, and after he disseiseth the discontinuer, and so dieth seised, now the lande descendeth to the two daughters, in this case, as to the elder daughter that is inheritable by force of the taylor, this is a remitter but of the halfe, and as to the other halfe, she is put to her action offormedone agaynst her syster. For in this case the two sisters be not tenants in parcenerie, but be tenants in common, for this that they be in by dyuerse titles. For the one syster is in in her remytter by force of the taylor, as to that that vnto her belongeth: And the other sister is in, as to that that belongeth to her in fee simple by the descent of her father. &c.

Cap. 12.  
Tenantes  
in common  
by discent  
where as  
auncester  
died soole  
seised.

**I**n the same maner it is, yf the tenant in the taylor enfeoffe his heire apparant in the taylor beyng the heire within age, and an nother to yntenant in fee, and the tenant in the taylor dyeth, now the heire in the taylor is in his remitter as to the halfe, and as to that other halfe he is putte to his wytte offormedone. &c.

**A L S O** yf tenant in the taylor enfeoffe his heire apparant, the heire beyng of full age at tyme of the feoffement, and after the tenant in the taylor dyeth, this is no remytter to the heire, for this that it was his owne for

by that

ly that



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ly that he beyng of full age wolde take such feoffement. &c. But suche folp may nat be ad- iudged in the heire beyng within age at the tyme of the feoffement. &c.

**A L S O** if tenant in the taylor enfeoffe a woman in fee, and dieth, and his issue with- in age takethe the same woman to wife, this is a rempyter to the chylde, and the wife than hath nothynge, for this that the housbande and the wife ben but one person in the lawe. And in that case the husbande may nat sue a wytte of Formedone, but if that he wyl sue agaynst hym selfe, the whiche shall be incon- uenient, and for that cause the lawe iudgeth the heire in his remitter, for this that no folp may be arretted to hym beyng within age at tyme of the spousels. &c. And if the heire be in his rempyter by force of the taylor, it foloweth by reason, that the wyfe hath nothynge. &c. for in so muche that the husbande, and the wyfe be but one person, the lande may not be seue- red by halues, and for this cause the husband is in his remitter of the hole. But otherwyle it is, yf suche an heire be of full age at tyme of the spousels, for thanne the heire hath no- thynge but in the right of his wife. &c.

**Remytter  
by reson of  
the lease in  
feoffed.**

**A l s o** if a woman leased of certayne lande in fee taketh an husbande, the whyche alpe- neth the same lande to an nother in fee, and the alienee letteth the same lande to the hous- bande and the wife, for terme of their two li- ues, sayng the reuercion to the lessour, and to his heires, in this case the wyfe is in her remyt-

remitter, and she is sealed in dede in hyr dede  
 meane as of fee, as she was before, for this  
 that the taking of estate, shal be adiudged in  
 the law the dede of the husband, and nat the  
 dede of the wyfe, so that no folp may be iud-  
 ged in the wyfe, that is couerte in suche case,  
 And in this case the lessour hath nothyng in  
 the reuercion, for this that the wyfe is sealed  
 in fee. &c. But in this case, yf the lessour wyl  
 sue an actyon of waste againste the husbande  
 and his wife, for this that the husbande hath  
 made waste, the housband may nat barre the  
 lessour, for to shewe this, that the taking of  
 estate made vnto hym, and to his wyfe, whi-  
 che maketh a remitter to his wyfe, for this  
 that the husbande is stopped to say this that  
 is agaynst his feoffement, and his owne re-  
 pprisell of estate for terme of lyfe to hym and  
 to his wife, and yet the lessour hath no reuer-  
 cio, for this that the fee simple is in the wife.  
 And thus a man may se a matter in this case  
 that a manne shal be stopped by a matter in  
 dede, though he no wrytyng by dede indented,  
 or otherwyle, be thereof made. But if in an  
 actyon of waste, the houseband make default  
 at the grand distresse, and the wife prayethe  
 to be receyued, and is receiued, she shal well  
 shewe all the matter, and howe shee is in hyr  
 remitter, and she shal barre the lessour of his  
 action. &c. For in euery case that the wyfe is  
 receiued for default of hyr housband, she shal  
 pleade, and haue the same advantage in plee  
 pleadyng, as she were a woman sole. &c. And  
 howe

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Estoppell  
 by a matt  
 in dede.



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Collusyon  
abhoired  
in the law.

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howe be it that the alpeene made the lease to the housband and his wife by dede ended yet this is a remitter to the wyfe. And alsoo though the alience yelded the same lande to the husbande and his wyfe by fyne for terme of theyr lyues, yet this is a rempyter to the wyfe, for this that the wyfe couerte that taketh estate by fyne, shall nat bee examined by the Justices. &c.

**A N D** here note well, that whanne any thyng shall passe fro the wyfe that is couert baron by force of a fyne, as yf the housbande and his wyfe make a onysaunce of righte to an other. &c. or make a grant or a surrendre to an other, or release by a fyne to an nother, & sic de similibus, where the ryght of the wyfe passethe frome the wyfe by force of the same fyne, the wyfe in all suche cases shall bee examined, before that the fyne bee accepted, for thys that suche fynes conclude suche wyues couerte for ever. &c. But where nothyng is moued in the fyne, but alonely that the husband and the wyfe take estate by force of the same fyne, this shall conclude the wyfe, for this that in suche case she shall neuer bee examined. &c.

**A L S O** yf tenaunt in the taylor discontinue the taylor, and hath issue a doughter, and dieth, and the doughter beyng of full age taketh an housband, and the discontinuer maketh a lease of this to the housbande and his wife, for terme of their lyues, this is a remitter in dede to the wife, and the wyfe is in by force

fozcc of the taylor, causa qua supra. &c.

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**¶** Also yf land be geuen to the husband and his wyfe, to haue and to holde to them and to the heyres of their two bodies begotten, and after the housbande alpeneth the lande in fee, and taketh agayne an estate to hym and to his wife for terme of their two liues. In this case this is a remitter in dede to the husband and his wyfe, maugre the housbande: for it may nat be a remitter in this case to the wife excepte it be a remitter to the housbande, for this that the housbande and his wife be but one selfe person in the lawe, though he that the housband is stopped to clayme, And for this this is a remitter in hym agaynst his alienacion, and his owne repyse, as it is aforesaid.

**¶** Also yf lande be gyuen to a woman in the taylor, the remaynder to an nother in the taylor, the remaynder to the thyrde in the taylor, the remaynder to the fourthe in fee, and the wife taketh an housband, and the housbande dyscontinuethe the lande of the wyfe, by this discontinuance all the remaynders be dyscontinued. For yf the wyfe dye without issue, they in the remaynder shall haue no remedye, but to sewe theyr wyttes of forme done in the remaynder, whan they come to theyr time &c. But yf after suche discontinuance, estate be made to the housbande and his wyfe, for terme of theyr two lyues, or for terme of an nothers lyfe, or an nother estate. &c. for this that thys is a remitter to the wyfe, This is also a remitter to all theym in the remaynder

der



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Remytter  
by reason  
of a reco-  
uerie.

Det. .xc. for after this that the wyfe that is in  
her remytter dyeth withoute issue, they in the  
remaynder may entce. .xc. without any adyon  
or suite. .xc. In the same maner it is of theym,  
which have the reuercio after suche tailles. .xc.  
**A L S O** yf a man let a house to a womā  
for terme of hyr lyfe, sayng the reuercion  
to the lessour, and after one sueth a faynt and  
falle adyon against the woman, and recou-  
ereth the house agaynst hyr by default, so that  
the woman may haue agaynst hym a wytte,  
Quod ei deforciat, after the statut of westm.  
seconde capi. 4. nowe is the reuercion of the  
lessour dyscontinued, so that he maie haue no  
action of waste. But in this case yf the wo-  
man take an housbande, and he that recou-  
ereth letteth the house to the housband and to  
his wyfe, for terme of theyr two lyues: there  
the wyfe is in hyr remytter by force of the  
fyyste lease. And if the husband and the wyfe  
make wast, the fyyst lessour shal haue against  
them a wytte of wast for this, that in so mu-  
che that the wyfe is in hir remytter, he is re-  
mitted to his reuercion. But it semeth in this  
case, yf he that recouereth by the false action,  
wyl bypunge an nother wytt of wast agaynst  
the husband and his wyfe, the husband hath  
no remedy agaynst hym, but to make defaute  
at the great distresse. .xc. and to cause the wife  
to be receiued, and to plede the mater agaynst  
the seconde lessour, and to shewe that the ac-  
tion, by whiche he recouered, was false and  
fayned in the lawe, and soo the wyfe maye  
barre

batre hym. &c.

¶ Also if the husbände discontinue the land of his wyfe, and after taketh agayne estate to hym and to his wyfe, and to the thyrde person for terme of their lyues, or in fee, this is no remytter to the womanne, but as to the moytie. And as for the other moytie it beho: ueth her after the death of her husbände to sue a wytte of cui in vita. &c.

¶ Also if the husbände discontinue the land of his wyfe, and goeth ouer the see, and the discontinuee letteth the same land to the woman for terme of hir life, and deliuereth to hir seysyn, and after the husbände cometh and agreeth to that liuerie of seysyn, this is a remytter to the woman, and yet if the woman had ben sole at the tyme of the lease made to hir, this shulde be to her a remytter, but in so muche as she was couert baron at the tyme of the lease, and of the liuerie of seysyn made to hir, though that she onely toke the liuerie of seysyn, this was a remitter to her, because a woman couert shall be adiudged as an infant within age in suche case. &c. Enquire in this case, if the husbände whan he cometh agayne from beyonde sea, if he wyll disagree to the lease and liuerie of seysyn made to his wyfe in his absence, if this shall put the woman fro her remitter or not. &c.

Inquire

¶ Also yf the housbände discontinue the tenementes of his wyfe, and the discontinuee is disseised, and after the disseisor letteth the sayde tenementes to the housbände and his wyfe



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Cap. 12. wyfe for terme of lyfe, this is a remytter to the wyfe: but if the housbande and the wyfe were of counyn and consent, that the disseisyn shulde be made, than it is no remytter to the wyfe, because she is a disseisoyesse. But if the husbande were of counyn and consent to the disseisyn, and not the wyfe, than suche lease made to the wyfe is a remytter, because that no defaute was in the wyfe.

¶ Also if suche a discontinuance had made estate of frehold to the housbande and to his wyfe by dede indented vppon condicion. i. reseruyng to the discontinuance a certayne rente, and for defaute of payment of the rente a reentre, and bycause that the rente is behynde, the discontinuance entreth, than of this entree the woman shall haue assise of nouell disseisyn after the deathe of hir husbande agaynst the discontinuance, because that the condicion was holly admylled, in so muche as the woman was in hir remytter, yet the housbande with his wyfe coulde not haue assise, because the husbande is stopped. &c.

¶ Also if the husbande discontinuance the tenementes of his wyfe, and taketh estate agayne to hym for terme of his lyfe, the remaynder after his deceasse to his wyfe for terme of hir lyfe, in this case this is noo remytter to the wyfe, durynge the lyfe of her housbande, because that durynge the lyfe of the husbande, the wyfe hath nothynge in the freholde, but if in this case the wyfe ouerlyue the husband, this is a remytter to the wyfe, because that a free

fretholde in lawe is fallen to her, maugre her  
wyll. And in so moche that she can have no  
action agaynste none other personne, and a  
gaynst her selfe she can have no action, ther-  
foze she is in hir remyttter. For in this case  
thoughe that the woman enter nat in the te-  
nementes, yet a straunger that hath cause to  
have action, may sue his action agaynste the  
woman of the same tenementes, because she  
is ternaunt in lawe, though she be nat tenant  
in dede, for tenaunt of franke tenement in  
dede is he, that if he be disseised of his franke  
tenement, he may have assise, but ternaunt of  
freholde in lawe before his entre in dede, shall  
have no assise, and yf a man seised in fee of  
certayne lande hath issue a sonne, whiche ta-  
keth a wyfe, and the father dieth seysed, and  
after the sonne dyeth, before any entre made  
by hym into the lande, the wyfe of the sonne  
shall be endowed in the lande, as is aforesayd  
in the chapter of releases, and yet he hadde  
no franketenement in dede, but he had a fee  
and a franketenement in lawe. And so note  
wel, that a Precipe quod reddat may as wel  
be mayntayned agaynst hym, that hath frank  
tenement in lawe, as agaynst hym that hath  
franketenement in dede.

Note of  
which fran-  
ketenement  
assise shall  
be mayntai-  
ned.

¶ Also if tenat in the taylor have issue. ii. son-  
nes of full age, and he letteth the taylor lande  
to the elder sonne for terme of his lyfe, the  
remaynder to the yonger sonne for terme of  
his lyfe, and after the tenant in the taylor dy-  
eth. In this case the elder sonne is nat in his  
remis



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remptter, because that he toke estate of his father, but yf the elder sonne die without issue of his body, thanne this is a remptter to the yonger brother, because he is heire in the taylor, and a franktenement in lawe is fallen vppon hym, by force of the remaynder, and there is none, agaynst whome he maye sewe his action. &c.

**I**n the same maner it is, where a man is disseised, and the disseisour dieth therof seised, and the tenementes descend to his heire, and the heire of the disseisour maketh a lease to a man of the sayde tenementes for terme of lyfe, the remaynd to the disseisee for terme of lyfe, or in taylor, or in fee, and the ternaunt for terme of lyfe dieth, nowe this is a remptter to the disseisee. &c. causa qua supra.

**A**L S O if ternaunt in the taylor enfeoffe his sonne, and an nother by his dede of the taylor lande in fee, and liuerie of seaisyn is made to the other, accordynge to the dede, and the sonne nat knowynge therof, nor agreynge to the seoffemente, and after he that toke the lyuere of seaisyn dyeth, and the sonne occupieth nat the lande, nor taketh any poynte of the lande, durynge the lyfe of his father, and after the father dieth, now this is a remptter to the son, because that the freholde is fallen to him by the surviuour, and no default was in him, because he neuer agreed. &c. in the lyfe of his father, and there is none, agaynst whome he may pursue his wytte of formedone, &c. For if a man be disseised of certayn

sayne land, and the disseysour maketh a dede of feoffment, wherby he enfeoffeth B. & C. and D. and the liverye of seisin is made to B. and C. but D. was nat at the liverye of seysyn, nor neuer agreed to the feoffment, nor neuer would take the profits. &c. and after B. and C. dye, and D. ouerlyueth them, and the disseisee bringeth his wytte vppon disseysyn in the per agaynst the same D. he shall shewe all the matter, and how that he neuer agreed to the feoffment, and so he shall dyscharge hym selfe of damages, so that the demandant shall recouer no damage agaynst hym, though he that he be tenant of franketenement of the lande. And yet the statute of Gloucester cap. 1. wyl, that the dysseisee shall recouer damages in a wytte of entre grounded vppon the nouelle disseysyn, agaynst hym that is founde tenant. And this is a profe in the other case, that in so muche as the issue in the tale cometh to the franketenement, and nat by his dede, nor by his agreement, but after the death of his father, this is a remytter to hym, in so muche that he can nat sue an adyon of formedon agaynst none other person. &c.

¶ Also yf an abbotte alene the lande of his house to an nother in fee, and the alenec by his dede chargeth the land with a rent charge in fee, and after the alienec enfeoffeth the abbotte with licence to haue and to holde to the abbotte and to his successors for euer, and after the abbotte dyeth, and an nother is chosen and made abbotte: In this case the ab-



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botte that is the successour, and his couente be in their remytter, and shall holde the lande discharged, bycause that the same abbot can nat haue any action of wytte of entre sine assensu capituli, of the same landes agaynst none other person.

**I**n the same maner it is, where a byshop, or a deane, or other suche persones alpen, &c. withoute assente, &c. and the alienee chargeth the lande, &c. and after the byshoppe taketh estate agayne of the sayde lande by lycence to hym and to his successours, and after the byshop dyeth, his successour is in his remytter, as in right of his church, and shall defete the charge &c. causa qua supra.

Fauxifiez  
de rec par  
defaute.

**A**lso yf a man sewe a false action agaynst the tenant in the taylor, as if a man wylle sue agaynst hym a wytte of entree in the poste, supposynge by his wytte, that the tenant in the taylor, hadde nat his entre but by A. of B. that disseised the grandfather of the demandant, and that is false, and he recouereth agaynst the tenant in the taylor by defaute, and sueth execucion, and after the tenant in the taylor dieth, his issue may haue a wytt of form done agaynst hym that recouered, and yf he wylle pleade the recouere agaynst the tenant in the taylor the issue may saye, that the sayde A. of B. disseised nat the graundefather of hym that recouered in the maner, as his wytt supposeth, and so he shall falsifie his recouerie. Also suppose that this was true, that the sayde A. of B. disseised the graundefather of  
the

the demaundant that recouered, and that af-  
ter the disseisyn, the demaundaunt oꝝ his fa-  
ther, oꝝ his grandfather by a dede had releas-  
ed to the tenant in the taylor, al the right that  
he had in the land. &c. and this nat withstan-  
dyng he sued his wytte of entre in the poss-  
essyn the tenant in the taylor, in the maner  
as is aforesayde, and the ternaunt in the taylor  
pleadeth to hym, that the sayde A. of W. dis-  
seised nat his graundfather in the maner as  
his wytte supposeth, and vppon this they be  
at issue, and the issue is found foꝝ the deman-  
daunt, wherby he hath iugement to recouer,  
and such execution, and after the tenant in  
the taylor dyeth, his issue may haue a wytte of  
formedon agaynst hym that recouered. And  
yf he wyl pleade the recoueree by action tried *fauera*  
agaynst his father that was ternaunt in the *de recouer*  
taylor, than he may shewe and pleade the *re- par saynte*  
lease made to his father, and so the action plede.  
that was sued, was saynt in the lawe. &c.

And it semeth that saynte action is as muche *faynt ac-*  
to say in englyshe a saynted action, that is to *tion.*  
saye, suche action, that though the wordes  
of his wytte be true, yet foꝝ certayne causes  
he hath no cause noꝝ tyle by the lawe to re-  
couer by the same action. And fals action is  
where the wordes of the wytte be false, and *fals actio.*  
in the two cases beforesayde, if the case were  
suche, that after suche a recoueree and execu-  
cion therof made, the tenant in the taylor had  
disseised hym that recouered, and therof died  
seised, wherby the land also descended vnto



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his yssue, this is a rempytter vnto the yssue, and the issue is in by force of the tayle, and for that cause I haue put these two cases before sayde, to enforme the my sonne, that the issue in the tayle, by force of a dyscende made to hym, after a recouere and execucion made against his auncester, may bee as well in his rempytter, as he shoulde be by dyscent made to hym after a discontinuance made by his auncester of the tailed landes by feoffement in the countrey or otherwise. &c.

¶ Also in the same case aforesayd, if the case were suche, that after this, that the Demourant had iudgement to recouer against the tenant in the taile, and the same tenant in the tayle dyed before any execucion had agaynste hym, wherby the tenementes descende to his issue, and he that recouered sued, a Scire facias out of the iudgement, to haue execucion of the iudgement agaynste the issue in the tayle, the issue shall pleade the mattier as before is sayde, and soo shall proue that the recovery was fals or faynte in the lawe, and soo shall barre hym to haue execucion of the Iudgement. &c.

¶ Also yf tenant in the tayle dyscontinue the tayle, and dieth, and his issue byngeth a writ of Formedone agaynste the dyscontinuee being ternaunte of the freehoide of the lande, and the dyscontinuee pleadeth, that he is not tenant, or otherwise disclaymeth in the tenancye, in this case the iudgement shalbe, that the tenant go without day, and after such iudgement

ment the pſſue in the taylor, that is demaundant maye well enter in the lande, nat withſtandynge the diſcontinuance. And by ſuche entre he ſhalbe adiudged in his remytter, & the cauſe is for this, that where any man ſeweth a pꝛeciꝑe quod reddat, agaynſt any tenant of freeholde, in whiche action the demaundaunt ſhall not recouer damages, and the tenaunte pleadeth none tenure, oꝛ otherwyſe diſclaymeth in the tenancie, the demaundant maye nat auerre his wytte and ſay, that he is tenant, as the wytte ſuppoſeth. And for that cauſe the demaundaunt after that that iudgement is geuen, that the tenant ſhall go without day, may enter into the tenementes demaunded, the whiche ſhall be as greatte aduantage to hym in the lawe, as yf he hadde iudgement to recouer agaynſte the tenant. And by ſuche entre he is in his remytter by force of the taylor, but where the demaundant recouereth damages agaynſt the tenant, than in this caſe the demaundant may auerre that he is tenant as the wytte ſuppoſeth, and is for the aduantage of the demandant, for to recouer his damages, oꝛ elles he ſhall nat recouer his damages, the whiche damages bee oꝛ were geuen hym by the lawe.

**A L S O** if a man be diſſeiſed, and the diſſeiſour die, his heire being in by diſcent, now the entre of the diſſeiſee is taken away. And if the diſſeiſee bynge his wytte of entree vpon the diſſeiſyn in the per agaynſt the heire, and the heire diſclaymeth in the tenancie. &c.



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the demaundant may auerre his wylle, that he is ternaunt as the wylt supposeth, if he wil for to recouer his damages. But yet yf he wylle leaue the auerrement. &c. he may lausfully enter into the lande, because of the disclaimer, nat withstandinge that his entre before was taken away. And that was adiudged before my maister Syr Robert Danby late chief Justyce of the common place, and his companions. &c.

**A L S O** where the entre of a manne is lausfull, though he take estate to hym, whan he is of full age for terme of lyfe, or in taylor, or in fee, this is a remytter to hym, yf suche takynge of estate be not by dede ended, or by matier of recorde that shall conclude or estoppe hym. For if a man be disseised & therof taketh estate of the disseisour without dede or by dede pol, this is a good remytter to the disseisee. &c.

**A L S O** if a man lette land for terme of life to an other, the whiche alieneth to an other in fee, and the alienour maketh estate to the lessour, this is a remytter to the lessour, because his entre was lausfull. &c.

**A l s o** if a man be disseised, and the disseisour letteth the lande to the disseisee by dede pol, or without dede for terme of yeres, whereby the disseisee entreth, this entre is a remytter to the disseisee. For in such case where the entre of a man is lausfull, and a lease is made to hym, though that he clayme by wordes in the countrey, that he hath estate by force of suche

William  
marston

suche lease, or saith openly, that he claymeth nothyng in the lande, but by force of suche lease, yet this is a remyttter to hym, for suche clayme in the countrey is nothyng to purpose, but if he clayme in any court of recorde, that he hath estate but by force of such lease, and nat otherwyle, than he is concluded. &c. Cap. 12.

**E** Also if two ioyntenantes seised of certain lande in fee, the one beinge of full age, the other within age, be disseised, and the disseisour dieth seised, and his issue entreth, thone of the ioyntenantes beyng than within age, and after that he cometh to full age, the heire of the disseisour letteth the lande to the same ioyntenautes for terme of their two lyues, this is a remyttter as to the halfe to hym that was within age, because that he is seised of that moytie that belongeth to hym in fee, because his entree was lawfulle. But the other ioyntenaunt hath in the other halfe but an estate for terme of his lyfe by force of the lease because his entre was taken away. &c. Estoppel.

**Warrantie.**

**Cap. xiii.**

**I** T IS commonly sayd, that there be. iii. maner of warranties, that is to say, warrantie lyneall, warrantie collaterall, and warrantie that beginneth by disseisyn. And it is to wite, that before the statute of Gloucester cap. 3. all warranties whiche descended to theym, whiche were heires to theym that

**E** b

made



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Warrantie  
that begin-  
neth by dis-  
seisyn.

made the warrantie, were barres to the same heires, to demaunde any landes or tenementes agaynst those warranties, except the warranties that beganne by dysseisyn. For suche warrantie was neuer barre to the heire, because the warrantie began by wronge, that is to say, by disseisyn.

¶ Warrantie that begynneth by disseisyn is in suche forme, as where there is father and sonne, and the sonne dothe purchase lande &c. and letteth the same lande to his father for terme of yeres, and the father by his dede thereof enfeofeth an nother in fee, and byn- deth hym and his heires to warrantie: if the father die, wherby the warrantie descendeth to his sonne, this warrantie shall nat barre the sonne, for notwithstanding this warrantie, the sonne may well entre in to the lande, or have an assise agaynst the alienee if he wil, because the warrantie beganne by dysseisyn. For whan the father that had no estate, but for terme of yeres, made a feoffement in fee, this was a disseisin to his sonne of the frank tenement, that than was in the sonne.

¶ In the same maner it is, yf the sonne lette vnto the father the lande to holde at wylle, and after the father maketh a feoffement with warrantie &c. and as it is said of the fader, so it may be sayd of every other auncester. &c.

¶ In the same maner it is, if tenaunt by elegit, tenant by statute marchant, or tenant by statute staple, make a feoffement in fee with warrantie, &c. this shall nat barre the heire that

that ought to haue the lande because that su<sup>ch</sup> Cap.13.  
the warranties begynne by disseisyn.

¶ Also if wardeyne in chivalrie, or wardein  
in socage make a feoffemente in fee, or in fee  
taylor, or for terme of lyfe with warrantie. i. c.  
such warranties be no barres to the heyres,  
to whom the land shal descende, bicause that  
they begyn by disseisyn.

¶ Also yf the father and the sonne purchase  
certayne landes or tenementes, to haue and  
to holde to theim ioyntly. i. c. and after the fa-  
ther alpeneth the hole to an nother, and byn-  
deth hym and his heires to warrantie i. c. and  
after the father dyeth, this warrantie shal  
nat barre the sonne of the moytie that belon-  
ged to hym of the same landes or tenementes,  
bicause that as to that moytie, that belonged  
to the sonne, the warrantie began by disseisin.

¶ Also if A. of B. be seised of a mese, and F.  
of G. that hath no ryghte, entereth into the  
same mese, claympng to holde the same mese,  
to hym and to his heyres, but the sayde A. of  
B. than is continually dwellynge in the same  
mese: in this case the possession of the frank-  
tenement shal be alway adiudged in A. of B.  
and nat in F. of G. bycause that in such case,  
where two be in one mese, or in other tene-  
mentes, and the one claymeth by one title, and  
the other by an other tittle: there the law shal  
adiudge him in possession that hath righte to  
haue the possession of the same tenementes.  
But in the case aforesayde, if F. of G. make  
a feoffemente to certayne barrettones and ex-  
torciors



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forioners in the countrey for to haue mayntenance of them, to haue the same mese by a dede of feoffement with warrantie, by force of whiche the sayde A. of B. dare nat dwelle in the same mese, but goeth oute of the same mese: this warrantie begynneth by dysseysyn, bycause that suche a feoffement was cause that the sayde A. of B. forsoke the possession of the same mese. &c.

Maxime.

AND ye shall note, that where one hauyng no right to enter in an others tenementes, dooeth enter into the sayde tenementes, and incontinent maketh a feoffement to other persons by his dede with warrantie, and deliuereth to them seisin, this warrantie beginneth by dysseysyn: bycause that the dysseysyn and the feoffement were made as it were at one tyme. and that this is lawe, ye maye see in a plee Anno. 31. E. 3. in a writte of Foynes done in the reuercion.

Warrantie  
lynal.

Warrantie lynal is where a man seased of certayne lande in fee maketh feoffement by his dede to an nother, and byndeth hym and his heyes to warrantie, and hath issue, and dyeth, and the warrantie descendeth to his issue: this is a lynal warrantie. And the cause why this is a lynal warrantie is nat bycause that the warrantie descendeth from the father to his heye, but the cause is for this cause, that if no such dede with warrantie had ben made by the fader, than the ryght of the tenites shuld descend to the heire, & the heire should conuey the dyscent from the father &c.

for

**¶** For if there be father and sonne, and the sonne purchas tenementes in fee, and the father disceiseth the sonne therof, and alpeneth it to an nother in fee by his dede, and by the same dede byndeth hym & his heyyes to warrant the same tenementes. &c. and the father dyeth, nowe is the sonne barred to haue the sayde tenementes, for he may by no suite, nor by no other meane by the lawe haue the sayd tenementes, bycause of the sayde warrantie, for this is a collateral warrantie, and yet the warrantie descended lyneally from the father to the sonne. But bycause that yf noo suche dede with warrantie had be made, the sonne in no maner myghte conueie the tyle that he hathe in the tenementes from his father to him, in so muche that his father had no estate nor tpyghte in the tenementes, therfore suche warrantie is calld collateral warrantie, in so muche that he that made the warrantie is collateral to the tyle of the tenementes, and that is as muche to say, that he, to whom the warrantie descended, coulde nat conuey the title that he had in the tenementes by him that made the warrantie, in case that no such warrantie had ben made.

**¶** Also yf there be grandfather, father, and sonne, and the grandfather is disceysed, in whose possession the father releaseth by his dede with warrantie. &c. and dieth, and after the grandfather dyeth, nowe is the sonne barred to haue the tenementes by the warrantye of his father, and this is calld lynealle

warrantie

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thomas

modye

Barmond

Collateral  
warrantie



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warrantie, bycause that if no suche warrantie had ben made, the sonne myghte nat haue conueried the righte of the tenementes to him, nor shew how he is heire to the grandfather, but by the meanes of the father. &c.

¶ Also yf a man haue issue two sonnes, and is dysseised, and the elder sonne releaseth to the disseisour by his dede with warrantie. &c. and dyeth withoute issue, and after the fader dyeth: this is a lyneall warrantie to the yonger sonne, bycause that though he the elder son dyed in the lyfe of the father, yet by possibilitie he myght be his heire, and he myght conuey to hym the tittle of the lande by his elder brother, if no suche warrantie had ben made. For it myght be, that after the deathe of the father, the elder brother entred into the tenementes, and died without issue, and than the yonger sonne shall conuey to hym the tittle by his elder brother. But in this case yf the yonger sonne release with warrantie to the dysseisour, & dyeth without issue, thys is a collateral warrantie to the eldest sonne, bycause that of suche lande as was to the father, the elder brother by no possibilitie might couey to him the tittle by meane of the yonger brother.

¶ Also yf the tenaunte in the taylor haue issue thre sonnes, and discontinue the taylor in fee, and the myddell sonne releaseth by his dede to the dyscontinue, and byndeth him and his heires to warrantie, and after the tenaunt in the taylor dyeth, and the myddelle sonne dyeth withoute issue: now is the elder sonne barred

to have any recouere by a writte of Forme-  
 done, because that the warrantie of the mid-  
 dell brother is collatcrall to hym, in so muche  
 that he may by no maner conueye to hym by  
 force of the taylor any discent by the myddelle  
 brother, and therfore it is a collatcrall war-  
 rantie. But in this case yf the elder brother  
 dye withoute issue, nowe the yonger brother  
 may well haue a Formedon in the descender,  
 and recouer the same lande, because that the  
 warrantie of the myddell brother is lyneall  
 to the yongest brother, because it may be, that  
 by possibilitie the middel brother might haue  
 ben sealed by force of the taylor after the de-  
 th of his elder brother, and than might the yon-  
 gest brother conuey his title of discent by the  
 myddell brother. &c.

¶ Also yf tenant in the taylor discontinue the  
 taylor, and haue issue, and die, and the vn-  
 cle of the issue release to the dyscontinuee with  
 warrantie. &c. and dieth without issue: this  
 is a collaterall warrantie to the issue in the  
 taylor, because that the warrantie descendeth  
 vpon the issue, whiche can not conuey hym  
 selfe to the taylor, by meane of his vn-  
 cle.

¶ Also if the tenaunt in the taylor haue issue  
 two daughters and dieth, & the elder dought-  
 er entred into the hole, and therof maketh  
 a feffement in fee with warrantie. &c. and af-  
 ter the elder doughter dieth without issue: in  
 this case the yonger doughter is barred as to  
 the one moytie, and as to the other moytie, she  
 is nat barred, for as to the moytie that belon-  
 geth



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geth to her self, she is barred, because that as to that moitie, she can not conuey the discent by the meane of her elder syster, & therfore as to that moitie, this is a collateralle warrantie, but as to the other moitie, whiche belonged to her elder syster, the warrantie is no barre to the younger syster, because that she maye conuey hir descent, as to that moitie that belonged to her elder syster, by meane of the elder syster, and so as to that moitie that belonged to the elder syster, the warrantie is lineall to the yonger syster. &c.

Maxime.

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¶ A N D note well, that as to hym that demaundeth fee simple by any of his ancestors, he shall be barred by a lineal warrantie, whiche descendeth vpon hym, except it be restrained by some statute: yet he that demaundeth fee taylor, by a wytte of formedone in the descender, shall nat be barred by a lineal warrantie, except he haue inough by discent in fee simple by the same auncestor, that made the warrantie. But a collaterall warrantie is a barre to hym that demaundeth fee, and also to hym that demaundeth fee taylor, withoute any other discent of fee simple, excepte in cases that be restrayned by the statutes, and othher cases for certayn causes, as shall be said hereafter.

¶ A L S O if lande be geuen to a man, and to his heires of his body begotten, the whiche taketh a wyfe, and haue issue a sonne betwene them, and the husbande discontinueth the taylor in fee, and dieth, and after the wyfe releas

releaseth to the discontinuance in fee with war-  
rantie. &c. and dieth, and the warrantie des-  
cendeth to the sonne, this is a collateral war-  
rantie, but if tenementes be gyven to the hus-  
band and the wife, and to the heires of their  
two bodies begotten, whiche have issue a son  
and the husband discontinueth the taylor, and  
dieth, and after the wife releaseth with war-  
rantie and dyeth, this warrantie is but a ly-  
neall warrantie to the sonne, for the son may  
nat be barred in this case to sue his wytte of  
formedone, except he have enough by descent  
in fee simple by his moder, because that their  
issue in a wytte of formedone ought to con-  
vey to hym the ryght as heire to his father,  
and to his mother of their two bodies begot-  
ten by fourme of the gyfte. And so in such  
case the warrantie of the father, and the war-  
rantie of the mother, be but as lyneall war-  
ranties to the heire. &c.

**A N D** note wel that in every case where  
a man demaundeth tenementes in fee taylor  
by a wytte of formedone, if any of the is-  
sue in the taylor that hadde possession, or that  
hadde no possession, make a warrantie. &c.  
yf he that seweth the wytte of formedone  
myghte by any possyblite by matter that  
myght be in dede convey to hym the ryghte  
by him that made the warrantie by the forme  
of the gyfte. &c. this is a lyneal warrantie and  
nat collateral. &c.

**A L S O** yf a man have issue thre sonnes,  
and he geueth lande to the eldeste sonne, so  
that he have



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have and to holde to hym and to the heyres of his body begotten, and for defaute of such issue, the remaynder to the middel sonne, to hym and to the heires of his body begotten, and for defaut of such issue, the remaynder to the yongest sonne, and to his heires of his body begotten: in this case yf the eldest sonne discontinue the taylor in fee, and binde hym and his heires to warrantie, and die without issue, this is a collateral warrantie to the myddell sonne, and he shall bee barred to demaunde the same lande by force of the remaynder, because that the remaynder is his taylor, and his eldest brother is collateral to that title, whiche begynneth by force of the remaynder.

In the same maner it is, yf the myddelle sonne had the same lande by force of the remainder, because that his eldest brother made no discontinuance, but died without issue of his body, and after the myddelle sonne maketh a discontinuance with warrantie. &c. and dieth without issue, this is a collateral warrantie to the yongest sonne, and also in this case yf any of the sayde sonnes bee disseised, & the father that made the gifte release to the disseisour al his right. &c. with warrantie, this is a collateral warrantie to that sonne, vpon whome the warrantie descended, causa qua supra. And so note well, that where a manne that hath collateral title, and his father releaseth with warrantie, that is a collateral warrantie. &c.

**¶ ALSO** yf the father gyue lande to hys elder Sonne, to haue and to holde to hym and the heires males of his body begotten, the remainder to the seconde Sonne &c. if the eldest brother alpyne in fee with warrantie. &c. and hath yssue female, and dyeth without yssue male, this is nat a collateralle warrantie to the seconde Sonne, nor shall nat barre hym of his adyon of forme done in the remainder, bycause that the warrantie descendeth to the daughter of the eldeste Sonne, and nat to the seconde Sonne. For euery warrantie that descendeth, descendeth to hym that is heire vnto hym, whiche made the warrantie by the common lawe. &c.

**¶ ALSO** yf lande be gyuen to a man, and to his heires males of his body begotten, and for default of suche issue, the remainder thereof to his heires females of his body begotten, and after the donee in the taylor maketh a feoffment in fee, with warrantie according, and hath issue a Sonne and a daughter and dyeth: this warrantie is but a lyne all warrantie to the Sonne, to demaunde by wytte of forme done in the descender. And it is but lyneal to the daughter, to demaund the same land by wytte of forme done in the remainder, if her brother dye without heire male, bycause that she claymeth as heire female of the body of her father begotten. But in this case yf hys brother in hys life lease to the discontinues &c. with warrantie. &c. and after die without yssue, this is a collateralle warrantye to the

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doughter, because that she can nat conuey to her the ryght that she hath by force of the remainder by any meane of descent by hyr brother, for this, that the brother is collateralle to the title of his sister, and therefore his warrantie is collateral. &c.

¶ ALSO I haue hearde saye, that in the tyme of kynge Rycharde the seconde, there was a Justice of the common place, dwelling in Kent, callyd Rykhyll, that had issue diuers sonnes, and his entente was, that hyr eldest sonne should haue certayne landes and tenementes to hym, and the heyres of his body begotten, and for default of yssue, the remainder to his second sonne. &c. and so to the third sonne. &c. And because that he wold that none of his sonnes shulde alien or make warrantie for to barre or to hurt the other that shuld be in the remainder. &c. he caused to be made an indenture to suche effecte, that is to saye, that the landes and tenementes were gyuen to the eldest sonne vppon this condicion, that if the eldest sonne a'iened in fee, or in fee talle &c. or if any of his sonnes aliened. &c. that then theyr estate should cease, and shulde be boide, and that than the sayde landes and tenementes immediately shuld remaine to the second sonne, and to the heyres of his body begotten, and that vppon the same condicion. &c. that if the seconde sonne alien. &c. that than his estate shoulde cease, and that than the same landes and tenementes shuld remaine to the thyrde sonne, and to the heyres of his body begotten.

forgotten, and so forth the remainder to o-  
 ther of his sonnes, and lyeue of seysyn was  
 made accordynge. But it seemeth by reason,  
 that all such remainders in the forme before-  
 sayde be void, and of no value, and that for  
 thre causes. One cause is for this, that every  
 remainder, that beginneth by a dede, it beho-  
 ueth that the remainder be in hym, to whom  
 the remainder is tyled by force of the same  
 dede, whan the lyeue of seysyn is made to  
 hym that hath the franktenement, for in su-  
 che case the beinge and nat beinge of the re-  
 maynder, is by liue of seysyn made to him,  
 whiche shall haue the franktenement, and  
 such remainder was nat to the second sonne  
 at the tyme of lyeue of seysyn, in the case be-  
 foresayde. .ic. the seconde cause is yf the fy-  
 sonne alen the tenementes in fee, than is the  
 franktenement and the fee symple in the a-  
 lyence, and in none other, and if the donour  
 had any reuercion by such alenacion, the re-  
 uercion is discontinued, than though that by  
 some reason, it may be that suche remainder  
 shall begyn his beinge and his growng ym-  
 mediately after suche alenacion made to a  
 straunger, that hath by the same alenacion  
 franktenement and fee symple. And also if  
 suche remainder should be good, than might  
 he entre vpon the alence, where he had no  
 maner of ryght before the alienacion, whiche  
 should be inconuenient. The thyrde cause is,  
 whan the condicion is suche, that if the eldest  
 sonne alene. .ic. that his estate shall cease, or



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shall be void. &c. than after suche alienacion  
 &c. may the donour enter by force of suche con-  
 dition. &c. as it semeth, and so the donour, or  
 his heires in such case oughte moze coner to  
 have the lande than the seconde sonne that  
 hadde noo righte befoze suche alienacion. &c.  
 and so it semeth that such remainders in the  
 case beforesayd be void. &c.

**A**lso at the common lawe before the sta-  
 tute of Gloucester, cap. iii. yf tenaunte by the  
 curtesie had alpened in fee with warrantie,  
 after his decease, this was a barre to the heir  
 &c. as it appereth by the wordes of the same  
 statute. But it is remedied by the same sta-  
 tute, that the warrantie of the tenant by the  
 curtesie shall be no barre to the heire, excepte  
 he have enough by dyscēt by the tenāt by the  
 curtesie. for befoze the sayd estatute that was  
 a collateralle warrantie to the heire, bycause  
 he could nat convey any title of discent to the  
 tenementes by the curtesie, but onely by his  
 mother or other of his ancestors. &c. and that  
 is the cause why it was collateral warrantie.  
 But if a manne inherite take a wife, whiche  
 have yssue a sonne betwene theym, and the  
 father dieth, and the sonne entreth in the lād  
 and endoweth his mother, and after hys mo-  
 ther alpeneth that that she hath in hir dower,  
 to another in fee with warrantie accordyng,  
 and after dieth, and the warrantie descendeth  
 to the sonne, now the son shall be barred, to de-  
 mand the same land, bycause of the sayd wa-  
 rantie, bycause that such collateral warrantie

of tenaunt in dower is nat remedied by any **Capitulum** statute. The same lawe is where tenaunt for terme of life maketh an alienacio with warrantie. &c. and dieth, and the warrantie descēdeth to hym that had the reuercion of the remainder. &c. they shalbe barred by such warrantie. &c.

Also in the said case, if it so were, that whā the tenāt in dower alieneth. &c. the heire was within age, & also at that time that the warrantie descended vppon hym, he was within age, in this case the heire may after enter vpon the alpee, nat withstanding the warrantie descended. &c. because that no laches shall be adiuged in the heire within age, that he entred nat vpon the alpee in the lyfe of the tenaunt in dower. but yf the heire was within age at the tyme of the alienacion. &c. and after he came to full age in the lyfe of the tenant in dower, and so beyng of full age he entred nat vpon the alienee in the lyfe of tenant in dower, and after the tenāt in dower dieth. &c. there peraduenture the heire shall be barred by suche warrantie, because it shalbe accounted his folp, that he beyng of ful age entred not in the lyfe of the tenant in dower.

Also it is spoken in the ende of the sayde estatute of Gloucester, that speaketh of the alienacion with warrantie made by the tenāt by the curtesie in suche fourme. In the same maner the heire of the woman after the dethe of the father and mother shall nat bee barred of action, if he demaunde the heritage of the



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marriage of his mother by a wytte of entree  
that his father aliened in the tyme of his mo-  
ther, wherof no fyne is leuyed in the kynges  
court. &c. And so by force of the same statute,  
if the husband of the wife alien the heritage  
or marriage of his wyfe in fee with warrant-  
tie. &c. by his dede in the countrey, this is clere  
lawe, that this warrantie shall not barre the  
heire, excepte he haue inoughe by descent. &c.  
But the doubte is, if that the husbände alen  
the heritage of his wyfe by fyne leuyed in the  
kynges court with warrantie. &c. if this shall  
barre the heire without any descent in value  
&c. And as to that I wyll saye here certayne  
reasones, that I haue harde spoken in this  
mattier. I herd my master s<sup>r</sup> Richard New-  
ton late chiefe Justice of the common place,  
saye ones in the same place, that suche war-  
rantie that the baron maketh by fyne leuyed  
in the kynges court, shall barre the heire,  
though that he haue nothynge by descent, be-  
cause the statute sayth, wherof no fyne is le-  
uyed in the kynges court. &c. And so by his o-  
ther opinion this warrantie by fine. &c. abideth  
yet a collaterall warrantie, as it was at the  
cōmon law not remedied by the said statute,  
because that the sayde estatute excepteth the  
alienacions by fyne with warrantie. And  
some other haue said, and yet say the cōtrary,  
and this is theire profe, that as by the same  
chapiter of the sayde estatute, it is ordeined,  
that the warrantie of the tenaunt by the cur-  
essie shall nat barre the heire, excepte he haue  
inoughe

Rowland Savadge  
Saville h<sup>h</sup> d<sup>h</sup>

enough by descent. &c. though that the tenant  
 by the curtesie leuy a fyne of the same landes  
 with warrantie. &c. as strongly as he can, yet  
 this warrantie shal nat barre the heire, except  
 he haue enough by descent. &c. And I thynke  
 that this is a law, for this that they say, that  
 it shulde be incouenient to vnderstand the sta-  
 tute in such forme, that a mā that hath nothing  
 but in the ryght of his wyfe, may by fyne le-  
 uied by hym self of the same tenementes that  
 he hath but in the right of his wyfe with war-  
 rantie. &c. shal barre the heire of the sayd te-  
 nementes without any descent of fee symple  
 &c. where the tenant by the curtesie can nat  
 doo it. But they haue sayd, that the statute  
 shal be vnderstande after the forme, that is  
 to saye, where the statute speaketh, wherof  
 no fyne is leuied in the kynges courte, that is  
 to say, wherof no laufull fyne is ryghtfully  
 leuyed in the same courte of the kyng, and  
 that is wherof no fyne of the husbnde and  
 his wyfe is leuied in the kynges courte, for at  
 the tyme of the makynge of the sayd statute  
 euery estate of landes or tenementes that a-  
 ny man or woman had, that shuld descend to  
 his heire, was fee symple withoute condycy-  
 on, or vppon certayne condicion in dede or in  
 lawe. And because that suche fyne thanne  
 myght laufully haue ben leuyed by the hous-  
 bande and his wyfe, and the heires of the hus-  
 bande warranted. &c. suche warrantie shulde  
 barre the heire. &c.

And so they say that this is the vnderstan-

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dunge



bynge of the sayde statute, for if the husband  
 and the wife made a feoffement in fee by deed  
 in the countrey, the heire after the deceasse of  
 the husbände and the wyfe shall have a wyte  
 of entree sur cui in vita. &c. nat withstanding  
 the warrantie of the husbände. Than yf no  
 such excepcion was made in the statute of the  
 fyne leuied. &c. than the heire shulde haue the  
 wytte of entree. &c. nat withstanding the fyne  
 leuied by the husbände and the wyfe, because  
 that the wordes of the statute befoze the ex-  
 cepcion of the fyne leuied. &c. be generale. &c.  
 that is to saye, that the heire of the woman  
 after the deth of the husbände and the wyfe  
 shall not be barred of action, if he demaunde  
 the heritage of the mariage of his mother by  
 wytte of entree, that his father aliened in the  
 tyme of his mother. And so though the hus-  
 bände and the wyfe aliened by fyne, yet this  
 is true, that the husbände aliened in the tyme  
 of the mother, & thus it shuld be in the case of  
 the statute, except such wordes were, that is  
 to say, wherof no fyne is leuied in the kinges  
 court. And so they say, that is to vnderstand,  
 wherof no fyne by the husband & the wife is  
 leuied in the kynges court, the whiche is law-  
 fully leuied in suche case. For if the Justices  
 haue knowlage that a mā that hath nothing  
 but in the right of his wyfe, will leuie a fyne  
 in his name only, they will not nor ought nat  
 to take suche fyne to be leuied by the hous-  
 bände onely, without nampnge the wyfe. &c.  
 therfore enquire of this mattier.

**A**lso it is to wyte, that in suche wordes where the heire demaundeth the herptage or maryage of hys mother, this woorde or is a disiunctiue, and is as muche to saye, yf the heire demaunde the herptage of hys mother, that is to be vnderstand, the tenementes that his mother had in fee simple by discent, or by purchase, or if the heire demaunde the maryage of hys mother, that is to say, the tenementes that were given vnto his moder in frank marriage.

**A**lso where it is moued in dyuers dedes, these wordes in latin, Ego & heredes mei &c. warrantizabimus & imperpetuū defendemus, it is to se what effecte hath that woorde defendemus, in suche dedes. And it semeth that hit hath nat the effecte of warrantise, nor comprehendeth any cause of warrantise, for yf it should be so, that it toke effecte or cause of warrantise, than it should be put in some fynnes leuped in the kynges courte. And it was neuer sene, that this woorde defendemus was in any fyne but alonely this woorde warrantizabimus, by which it semeth, that this verbe warrantizo, maketh warrantie, and is the cause of warrantise, and none other woorde in our lawe.

**A**lso yf tenant in the taylor be seiled of tenementes diuysable by testamente after the custome, &c. and the ternaunt in the taylor alpe- neth the tenementes to his brother in fee, and hath issue and dieth, and after his brother de- uiseth by his testamente, the same tenemen- tes

The effecte  
of this  
woorde defen-  
demus in  
a dede.

Warrantizo  
maketh warrantie  
and is the cause  
of warrantise



Warrantie  
shall ensue  
the course  
of the com-  
mon lawe.

tes to an nother in fee, and byndeth hym and his heyres to warrantise. &c. and dyeth withoute issue, it semeth that this warrantie shall nat barre the issue in the tale, yf he wyl sue his wyfte of formedone, bycause that this warrantie descendeth nat to the yssue in the tale, in so muche that the vncle of the yssue was nat bound by force of the same warrantie in his lyfe. And the pfofe of this, that he coulde nat warrant the lande in his lyfe is, in so muche that the deuyse coulde nat take any execution or effete, but after his decess, and in so muche that the vncle in his life was nat holde to warrantie, this prouethe that it may nat descende from him to the issue in the tale. &c. for nothyng maye descende fro the ancestre to his heyre, but the same that was in the ancestre. Also a warrantie maye nat go after the nature of tenementes by the custome. &c. but onely after the forme of the common lawe. For yf tenant in tale be seised of tenementes in boroughe englyshe, where the custome is, that all tenementes within the same borough ought to descende to the yongeste sonne, and he dyscontinuethe the tale with warrantise. &c. and hath issue two sonnes, and dieth seised of other landes and tenementes in the same borough in fee symple, to the value or more of the tenementes tyled. &c. yet the yongest sonne shall haue a wyfe of formedone of the testies tyled, and shall nat be barred by the warrantise of his father though that ynough to hym descended in fee symple.

Exmple, fro the same father after the custome Cap. 13.  
 &c. for this that the warrantie descendeth vpon  
 the elder brother that is in full life. &c. and  
 not vpon the yonger sonne.

**I**n the same maner it is of collateral war-  
 rantise made of suche tenementes where the  
 warrantise descendeth to the elder sonne. &c.  
 this shall nat barre the yonger son. &c.

**I**n the same maner it is of tenementes in  
 the Wyre of Kent, whiche be called Gauck-  
 kynde, the whiche tenementes be departable  
 amonge the bytherne. &c. after the custome  
 &c. yf any suche warrantie be made by theyr  
 auncesters, suche warrantise descendeth all  
 onely to the heire, that is heire by the comon  
 lawe, and nat to al the heyres whiche be hey-  
 res of suche tenementes after the custome. &c.  
 vt patet. **E. 22. C. 4.**

**A L S O** if a ternaunte in taylor haue issue  
 twoo daughters by dyuers ventres, and dy-  
 eth, and the daughters entre, and a straunger  
 dysseaseth them of the same tenementes, and  
 one of the daughters releaseth by her dede to  
 the dysseasour all her ryghte, and byndeth hir  
 and hir heyres to warrantise, and dyeth with-  
 oute issue: in this case the syster that surui-  
 ueth maye well entre, and put out the dysse-  
 sour of al the tenementes, for this that suche  
 warrantise is no discontinuance nor colla-  
 teral warrantise to the syster that suruiueth,  
 for this that they be of halfe bloudde, and the  
 one maye nat be heire to the tother after the  
 course of the common lawe. But otherwise  
 it is



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it is wher there be daughters of the ternaunt  
in the tale by one selfe venter.

**A**lso yf ternaunt in the tale leat tenementes  
to an nother for terme of hys lyfe, the re-  
maynder to an nother in fee, and the collate-  
rall auncester confirmeth the estate of the te-  
nant for terme of lyfe, and byndeth hym, and  
his heires to warrantye for terme of lyfe of  
the tenant for terme of lyfe, and dyeth, and  
the ternaunt in the tale hath issue and dyeth:  
Nowe this yssue is barred to aske the tene-  
mentes by wytte of formedone, durynge  
the lyfe of the tenants for terme of lyfe, by-  
cause of the collaterall warrantie descended  
vppon the issue in the tale. But after the de-  
ceasse of the tenants for terme of lyfe, the yss-  
ue shall haue a formdon. &c. and vpon this  
I haue hard a reson, that this case shal proue  
an other case, that is to say, if a man leat his  
lande to an nother, to haue and to holde vnto  
hym and to his heires for terme of an no-  
thers lyfe, if the lessee dyeth, lyuyng hym to  
whose lyfe. &c. and a stranger entreth in the  
lande, that the heire of the lessee maye putte  
him out, for this that in the case nexte afores-  
sayd, in so muche that a man may bynd hym  
and his heires to warrant the ternaunt for  
terme of lyfe al onely, durynge the life of the  
ternaunt for terme of lyfe, and that warra-  
ntie descendeth to the heire of hym that made  
the warrantye, the whiche warrauntye is  
no warrantye of inherytaunce, but all ones-  
ly for terme of an nothers lyfe: by the same  
reason

reason, where tenementes bee lette to a man **Cz. 13.**  
 to haue and to hold to hym and to his heires,  
 for terme of an others lyfe, yf the father dye,  
 luyng he, to whose lyfe. &c. his heyre shall  
 haue the tenementes, luyng hym to whose  
 life. &c. for they haue said, that if a man grant  
 an annuities to an nother, to haue and to take  
 to hym and to his heires for terme of an no-  
 thers lyfe, yf the grauntee dye. &c. that after  
 his heire shall haue the annuities, durynge the **Inquere.**  
 lyfe of hym, to whose lyfe. &c. *Quere de ista  
 materia.*

**B**ut where suche lease or graunt is made  
 to a man and his heires for terme of yeres, in  
 this case the heire of the lessee or the grauntee  
 shall neuer haue, after the deth of the lesse or  
 the grauntee, that that is so letten or graun-  
 ted, for this that it is chatell reall, and al cha-  
 tels reals by the common lawe shall come to  
 the executors of the grauntee or of the lessee,  
 and not to the heire. &c.

**A**lso in some case it may be, that howe be  
 it that a collaterall warrauntise bee made in  
 fee. &c. yet suche warrauntise maye be defeted  
 and aniented.

**A**s yf the tenaunte in the taile, discontynue warrantie  
 nue the taile in fee, and the discontinue is collaterall,  
 dyssesed, and the brother of the tenant in the  
 taile releaseth by his dede to the dyssesour  
 all his ryghte. &c. with warrauntise in fee,  
 and dyeth withoute issue, and the tenaunt in  
 the taile hath the yssue, and dyeth, nowe the  
 yssue is barred of his action by force of the  
 col. 8



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collateralle warrantie descendynge vppon hym, but if after this the discontinuee enter vpon the disseisour, than may the heire in the taylor haue his action of formedon. &c. for this that the warrantie is anpented and defeted. For whan the warrantie is made vnto a mā vpon any estate that he thā had, if the estate be defeted, the warrantie is defeted.

In the same maner it is, yf the discontinuee make a feoffement in fee, reserpyng to hym certayne rent, and for default of payment a reentre. &c. and a collaterall auncestor releaseth to the feoffee that hath estate vpon condition. &c. and dyeth without issue, though that the warrantie descende vpon the issue in the taylor, yet if after the rent bee behynde, and the discontinuee entreteth into the land &c. than the issue in the taylor shall haue his recovery by a wyttte of formedon, for this that the warrantie collaterall is defeted. And soo yf any suche collaterall warrantie be pleded agaynst the issue in the taylor in his action of formedon, he maye shewe the mattier as it is aforesayde, howe the warrantie is defeted, and so he may well maynteyne his action.

Also if tenāt in the taylor make a feoffement to his vnclē & after his vnclē maketh a feoffement in fee with warrantie. &c. to an other, & after the feoffee of the vnclē enfeoffeth agayne the same vnclē in fee, & after the vnclē enfeoffeth a stranger in fee, withoute warrantie, and dyeth without issue, and the tenāt in the taylor dieth, if the issue in the taylor wyll bypnyng his

many feoffment  
Beyl  
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his wytte of Formedon agaynst the straun-  
ger that cometh in by feoffement of the vncle,  
in this case the issue shall neuer be barred  
by the warrantie that was made by the vncle  
to the said fyist feoffee of his vncle, for this  
that the sayde warrantie was defeted and  
aniented, for this that the vncle toke agayne  
to hym as great estate of his sayd fyist feoffee,  
to whome the warrantie was made, as the  
same feoffee had of hym. And the cause why  
the warrantie is aniented in this case is this,  
that is to say, that if the warrantie were in  
his force, than the vncle shall warrant vnto  
hym self, which may not be. but if the feoffee  
made estate to the vncle for terme of lyfe, or  
in fee taylor, laupnge the reuercion vnto hym  
or that he make a gyfte in the taylor to the  
vncle, or a lease for terme of lyfe, the remain-  
der ouer. &c. in this case the warrantie is nat  
all vterly aniented, but it is put in suspence,  
durynge the estate that the vncle hath, for af-  
ter this, that the vncle is dead without issue,  
than he in the reuercion, or he in the remain-  
der shall barre the issue in the taylor in his wytt  
of Formedon by the collateral warrantie  
in suche case. &c. But otherwys it is, where  
the vncle had as greute estate in the lande by  
the feoffee, to whome the warrantie was  
made, as the feoffee had of hym. &c. causa patet.  
¶ Also yf the vncle after suche feoffemente  
made with warrantie, or release made by hym  
with warrantie, be atteynt of felony, or out-  
lawed of felony, suche collateral warrantie



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Shal not barre nor greue the issue in the taylor, for this that by the attainer of felony, the bloudde is corrupte betwene them. &c.

**A**lso if tenant in the taylor be disseised, and after maketh a dede of release to the disseisor with warrantise in fee, and after the tenant in the taylor is atteint or outlawed of felonye, and hath issue and dieth, in this case the issue in the taylor may enter vppon the disseisour.

**A**nd the cause is for this, that nothing maketh discontinuance in this case but the warrantie, that coulde not descende to the issue in the taylor, for this that the bloudde is corrupte betwene hym that made the warrantie and the issue in the taylor. For the warrantise alway abydeth at the common lawe, and the common lawe is suche, that whan a man is outlawed or atteint of felonye, whiche outlawrie is an attainer in the lawe, that the bloud betwene hym and his sonne, and all other whiche shuld be sayde his heires, is corrupte, so that nothing by discent may descend to any that may be said his heire, by the common lawe. And the wife of such a man, that is so atteinte of felonye shall neuer bee endowed in the tenementes of her housbande so atteinte.

**A**ND the cause is for this, that menne shuld more eschewe to do felonies. &c. but the issue in the taylor as to the tenementes taylor, is nat in such case barred, because he is inherited by force of the statute, and nat by the course of the common lawe, And therefore  
such

Suche attainer of his father, or of his ancestor in the taylor. &c. shall nat put him out of his right that he shoulde haue by force of the taylor. &c.

¶ Also if tenant in the taylor enfeoffe his vn-  
cle, the whiche enfeoffeth an other with war-  
rantie. &c. if after the feoffee by his dede releas  
to the vncl all maner of warrantyes, or all  
maner covenantes reals, or all maner of de-  
mandes, by such release the warrantie is ex-  
tincte. And yf the warrantie in suche case bee  
pleaded agaynste the heyre in the taylor that  
bryngethe his wytte of formedone, to barre  
the heyre of his actyon, if the heyre haue and  
pleade the sayde release. &c. he shall defete the  
plee in barre. &c. And manye other cases and  
matters be there, wherby a manne maye de-  
fete warranties.

¶ And it is to wyte, that in the same maner  
as collateralle warrantye may be defeted by  
matter in dede or in lawe, in the same maner  
may lyneall warrantie bee defeted. &c. For yf  
the heire in the taylor brynge a wytte of form-  
done, and a lyneal warrantie of his an-  
cestor, inheritable by force of the taylor, be pleaded a-  
gaynste hym, with that that ynoughe to hym  
is descended of fee simple by the same an-  
cestor that made the warrantye, yf the heyre  
that is demandant may adnull and defete the  
warrantie, this sufficeth to hym, for the dis-  
cente of other tenementes of fee simple ma-  
kethe nothyng to barre the heyre withoute  
warrantie. &c.

Finis.



# THE TABLE.

There beginneth the Table of  
this present boke.

**N**owe haue I made for the my sonne  
thre boke, The fyrst is of estate that  
menne haue of landes or tenementes,  
that is to say,

|   |                  |
|---|------------------|
| Tenant in fee simple.                                       | Cap. 1. fo. 2.   |
| Tenant in fee talle.  | Cap. 2. fol. 4.  |
| Tenant in the tale after possibilitie of issue<br>extincte. | Cap. 3. fol. 7.  |
| Tenant by the curtesy of Englad.                            | Ca. 4. fo. 8.    |
| Tenant in dower.  | Ca. 5. fo. eodem |
| Tenant for terme of life.                                   | Ca. 6. fo. 12.   |
| Tenant for terme of yerres.                                 | Cap. 7. fo. 13.  |
| Tenant at wyl.  | Ca. 8. fol. 15.  |
| Tenant by copy of courtroll.                                | Ca. 9. fol. 16.  |
| Tenant by the yerde.  | Cap. 10. fo. 18. |

## The seconde boke,

|                      |                    |
|----------------------|--------------------|
| Homage.              | Capit 1. fol. 19.  |
| Fealtie.             | Cap. 2. fo. 20.    |
| Escuage.             | Cap. 3. fo. eodem. |
| Knightes seruice.    | Cap. 4. fol. 22.   |
| Boage.               | Cap. 5. fo. 26.    |
| Frankie almoigne.    | Ca. 6. fo. 30.     |
| Homage auncestrell.  | Ca. 7. fo. 32.     |
| Gravnd sergeantie.   | Cap. 8. fo. 34.    |
| Petite sergeantry.   | Capit. 9. fo. 36.  |
| Tenure in burgage.   | Ca. 10. fo. 40.    |
| Tenure in byllenage. | Ca. 11. fo. 38.    |

Of

And  
William  
with my  
sonne  
I have  
made  
this  
table

# THE TABLE.

Of the maner of rentes, that is to saye,  
Rent service, rent charge, and rent secke.

Cap. 12. fo. +6.

AND these two smalle bookes have I  
made for the for to vnderstand better certain  
chapters of the auncient booke of tenures.

## The thynde booke.

Barreners by the comon law. ca. 1. fo. 52.

Barreners by the custome. Ca. 2. fo. 57.

Joyntenauntes. Ca. 3. fol. 60.

Tenantes in common. Ca. 4. fo. 64.

Estates vpon condicion. Cap. 5. fo. 71.

Discentes. Cap. 6. fo. 88.

Continuall clayme. Cap. 7. fo. 9+.

Releasses. Cap. 8. fo. 101.

Confirmacions. Ca. 9. fo. 114.

Attournementes. Cap. 10. fo. 119.

Discontinuance. Cap. 11. fo. 128.

Remitter. Ca. 12. fo. 139.

Warrantie, that is to saye, warrantie lyneal,  
warrantie collateralle, and warrantie that  
beginneth by disseisin. Ca. 13. fo. 149.

Here endeth the table:

*The author of this booke was  
Thomas Westcote - eldest  
son of Thomas Westcote  
by Westcote the only daughter  
& heir of Thomas Lu Hulton  
& Frankley. by second daughter  
heir of Sir. Lu Hulton.*

*E. J. M.*

*11/27/08*



**C**A N D know thou my sonne, that I will  
nat that thou beleue, that al that that I have  
sayd in the said booke is lawe, for that wyl I  
nat take vpon me, nor presume: But of those  
thynges that bee nat lawe, enquire and learn  
of my wise maysters lerned in the lawe. For  
withstandyngc thoughe that certayne thyn-  
ges, that be noted and specyfyed in the sayd  
bookes bee nat lawe: yet suche thynges shall  
make the more apte and able to under-  
stande and learne the argumentes  
and the reasons of the lawe.

For by the argumentes  
and the reasons in  
the lawe, a  
manne

maye more coner come to  
the certayntye and  
to the knowe-  
lage of the  
lawe.

Lex plus laudatur,  
Quando ratione probatur.

he assemed his mother  
of the lawe  
born by law  
in court

Wilm. Delmonico

God made man and man  
made money

God made money and man  
made money

God made

Delmonico